

State of Iowa

Iowa

Administrative

Code

Supplement

Biweekly
August 17, 2016



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Published by the
STATE OF IOWA
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Agriculture and Land Stewardship Department[21]

Replace Chapter 41

Architectural Examining Board[193B]

Replace Analysis

Replace Chapters 1 and 2

Parole Board[205]

Replace Analysis

Replace Chapter 9

Replace Chapter 11

Inspections and Appeals Department[481]

Replace Chapter 57

Replace Chapters 62 and 63

Regents Board[681]

Replace Chapter 13

Veterans Affairs, Iowa Department of[801]

Replace Analysis

Replace Chapter 10

CHAPTER 41 COMMERCIAL FEED

[Appeared as Ch 11, 1973 IDR]

[Prior to 7/27/88 see Agriculture Department 30—Ch 6]

21—41.1(198) Definitions and terms.

41.1(1) The names and definitions for commercial feeds shall be the official definitions of feed ingredients adopted by the Association of American Feed Control Officials, except as the secretary designates otherwise in specific cases.

41.1(2) The terms used in reference to commercial feeds shall be the official feed terms adopted by the AAFCO, except as the secretary designates otherwise in specific cases.

41.1(3) The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Iowa Code section 198.3(3): raw meat, hay, straw, stover, silage, cobs, husks, and hulls when unground and when not mixed or intermixed with other materials, provided that these commodities are not adulterated within the meaning of Iowa Code section 198.7.

41.1(4) Individual chemical compounds and substances are hereby declared exempt from the definition of commercial feed under the provisions of Iowa Code section 198.3(3). It has been determined that these products meet the following criteria:

- a.* There is an adopted AAFCO definition for the product.
- b.* The product is either generally recognized as safe (GRAS) or is not covered by a specific FDA regulation.
- c.* The product is either a naturally occurring product of relatively uniform chemical composition or is manufactured to meet the AAFCO definition of the product.
- d.* The use of the product in the feed industry constitutes a minor portion of its total industrial use.
- e.* Small quantities of additives which are intended to impart special desirable characteristics shall be permitted.
- f.* There is no need or problem of control of this product.

41.1(5) The following substance is hereby declared exempt: loose salt.

21—41.2(198) Label format. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this rule on the principal display panel of the product and in the following format.

1. Product name and brand name, if any, as stipulated in 41.3(1).
2. If a drug is used, label as stipulated in 41.3(2).
3. Purpose statement as stipulated in 41.3(3).
4. Guaranteed analysis as stipulated in 41.3(4).
5. Feed ingredients as stipulated in 41.3(5).
6. Directions for use and precautionary statements as stipulated in 41.3(6).
7. Name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in 41.3(7).
8. Quantity statement.

41.2(1) The information required in 21—41.2“1” to 21—41.2“5,” 21—41.2“7” and 21—41.2“8” must appear in its entirety on one side of the label or on one side of the container. The information required by 21—41.2“6” shall be displayed in a prominent place on the label or container but not necessarily on the same side as the above information. When the information required by 21—41.2“6” is placed on a different side of the label or container, it must be referenced on the front side with a statement such as “See back of label for directions for use.” None of the information required by 21—41.2(198) shall be subordinated or obscured by other statements or designs.

41.2(2) Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information.

- a.* The name and address of the manufacturer.
- b.* The name and address of the purchaser.

- c.* The date of sale or delivery.
- d.* The customer-formula feed name and brand name if any.
- e.* The product name and net quantity of each registered commercial feed and each other ingredient used in the mixture.
- f.* The directions for use and precautionary statements as required by 21—41.7(198) and 21—41.8(198).
- g.* If a drug-containing product is used:
 - (1) The purpose of the medication (claim statement).
 - (2) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with 41.4(4).

21—41.3(198) Label information. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation.

41.3(1) Product name and brand name if any.

- a.* The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class must be suitable for that purpose.
- b.* Commercial, registered brand or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.
- c.* The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name; provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis and the brand or product name is not otherwise false or misleading.
- d.* The word “protein” shall not be permitted in the product name of a feed that contains added nonprotein nitrogen.
- e.* When the name carries a percentage value, it shall be understood to signify protein or equivalent protein content only, or both, even though it may not explicitly modify the percentage with the word “protein,” provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.
- f.* Single-ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials unless the secretary designates otherwise.
- g.* The word “vitamin,” or a contraction thereof, or any word suggesting “vitamin” can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in 41.4(3).
- h.* The term “mineralized” shall not be used in the name of a feed except for “TRACE MINERALIZED SALT.” When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.
- i.* The term “meat” and “meat by-products” shall be qualified to designate the animal from which the meat and meat by-products are derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

41.3(2) If a drug is used:

- a.* The word “medicated” shall appear directly following and below the product name in type size no smaller than one-half the type size of the product name.
- b.* Purpose statement as required in 41.3(3).
- c.* The purpose of medication (claim statement).

d. An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with 41.4(4).

41.3(3) Purpose statement.

a. The statement of purpose shall contain the specific species and animal class(es) for which the feed is intended as defined in 41.3(4).

b. The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species and purpose while being consistent with the category of animal class defined in 41.3(4) which may include, but is not limited to, weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.

c. The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.

d. The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state "For Further Manufacture of Feed" if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user of the premix. (This paragraph is applicable to commercial feeds regulated under 41.3(4) "j"(2) "10.")

e. The purpose statement of a single-purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products or molasses products may exclude the animal class and species and state "For Further Manufacture of Feed" if the label guarantees of the nutrients contained in the single-purpose nutrient blend are sufficient to provide for formulation into various animal species feeds. (This paragraph is applicable to commercial feeds regulated under 41.3(4) "j"(2) "10.")

f. The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

41.3(4) Guarantees. Crude protein, equivalent crude protein from nonprotein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber, calcium, phosphorus, salt, and sodium shall be the sequence of nutritional guarantees when such guarantee is stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (e.g., percentage, parts per million, international units) are listed in a sequence that provides a consistent grouping of the units of measure.

a. Required guarantees for swine formula feeds.

(1) Animal classes.

1. Pre-starter - 2 to 11 pounds.

2. Starter - 11 to 44 pounds.

3. Grower - 44 to 110 pounds.

4. Finisher - 110 to 242 pounds (market).

5. Gilts, sows and adult boars.

6. Lactating gilts and sows.

(2) Guaranteed analysis for swine complete feeds and supplements (all animal classes).

1. Minimum percentage of crude protein.

2. Minimum percentage of lysine.

3. Minimum percentage of crude fat.

4. Maximum percentage of crude fiber.

5. Minimum and maximum percentage of calcium.

6. Minimum percentage of phosphorus.

7. Minimum and maximum percentage of salt (if added).

8. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

9. Minimum selenium in parts per million (ppm).

10. Minimum zinc in parts per million (ppm).

b. Required guarantees for formula poultry feeds (broilers, layers and turkeys).

(1) Animal classes.

1. Layer - chickens that are grown to produce eggs for food, e.g., table eggs.
 - Starting/growing - from day of hatch to approximately 10 weeks of age.
 - Finisher - from approximately 10 weeks of age to time first egg is produced (approximately 20 weeks of age).
 - Laying - from time first egg is laid throughout the time of egg production.
 - Breeders - chickens that produce fertile eggs for hatch replacement layers to produce eggs for food, e.g., table eggs, from time first egg is laid throughout their productive cycle.
2. Broilers - chickens that are grown for human food.
 - Starting/growing - from day of hatch to approximately 5 weeks of age.
 - Finisher - from approximately 5 weeks of age to market (42 to 52 days).
 - Breeders - hybrid strains of chickens whose offspring are grown for human food (broilers), any age and either sex.
3. Broilers, breeders - chickens whose offspring are grown for human food (broilers).
 - Starting/growing - from day of hatch until approximately 10 weeks of age.
 - Finishing - from approximately 10 weeks of age to time first egg is produced (approximately 20 weeks of age).
 - Laying - fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced.
4. Turkeys.
 - Starting/growing - turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males).
 - Finisher - turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age; males from 16 weeks of age to 20 weeks of age (or desired market weight).
 - Laying - female turkeys that are producing eggs, from time first egg is produced, throughout the time they are producing eggs.
 - Breeder - turkeys that are grown to produce fertile eggs, from day of hatch to time first egg is produced (approximately 30 weeks of age), both sexes.
- (2) Guaranteed analysis for poultry complete feeds and supplements (all animal classes).
 1. Minimum percentage of crude protein.
 2. Minimum percentage of lysine.
 3. Minimum percentage of methionine.
 4. Minimum percentage of crude fat.
 5. Maximum percentage of crude fiber.
 6. Minimum and maximum percentage of calcium.
 7. Minimum percentage of phosphorus.
 8. Minimum and maximum percentage of salt (if added).
 9. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
- c. Required guarantees for beef cattle formula feeds.
 - (1) Animal classes.
 1. Calves (birth to weaning).
 2. Cattle on pasture (may be specific as to production stage, e.g., stocker, feeder, replacement heifers, brood cows, bulls).
 3. Feedlot cattle.
 - (2) Guaranteed analysis for beef complete feeds and supplements (all animal classes).
 1. Minimum percentage of crude protein.
 2. Maximum percentage of equivalent crude protein from nonprotein nitrogen (NPN) when added.
 3. Minimum percentage of crude fat.
 4. Maximum percentage of crude fiber.
 5. Minimum and maximum percentage of calcium.
 6. Minimum percentage of phosphorus.

7. Minimum and maximum percentage of salt (if added).
8. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
9. Minimum percentage of potassium.
10. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).
- (3) Guaranteed analysis for beef mineral feeds (if added).
 1. Minimum and maximum percentage of calcium.
 2. Minimum percentage of phosphorus.
 3. Minimum and maximum percentage of salt.
 4. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
 5. Minimum percentage of magnesium.
 6. Minimum percentage of potassium.
 7. Minimum copper in parts per million (ppm).
 8. Minimum selenium in parts per million (ppm).
 9. Minimum zinc in parts per million (ppm).
 10. Minimum vitamin A, other than precursors of vitamin A, in international units per pound.
- d. Required guarantees for dairy formula feeds.
 - (1) Animal classes.
 1. Veal milk replacer - milk replacer to be fed for veal production.
 2. Herd milk replacer - milk replacer to be fed for herd replacement calves.
 3. Starter - approximately 3 days to 3 months.
 4. Growing heifers, bulls and dairy beef.
 - Grower 1 - 3 months to 12 months of age.
 - Grower 2 - more than 12 months of age.
 5. Lactating dairy cattle.
 6. Nonlactating dairy cattle.
 - (2) Guaranteed analysis for veal and herd replacement milk replacer.
 1. Minimum percentage of crude protein.
 2. Minimum percentage of crude fat.
 3. Maximum percentage of crude fiber.
 4. Minimum and maximum percentage of calcium.
 5. Minimum percentage of phosphorus.
 6. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).
 - (3) Guaranteed analysis for dairy cattle complete feeds and supplements.
 1. Minimum percentage of crude protein.
 2. Maximum percentage of equivalent crude protein from nonprotein nitrogen (NPN) when added.
 3. Minimum percentage of crude fat.
 4. Maximum percentage of crude fiber.
 5. Maximum percentage of acid detergent fiber (ADF).
 6. Minimum and maximum percentage of calcium.
 7. Minimum percentage of phosphorus.
 8. Minimum selenium in parts per million (ppm).
 9. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).
 - (4) Required guaranteed analysis for dairy mixing and pasture mineral.
 1. Minimum and maximum percentage of calcium.
 2. Minimum percentage of phosphorus.
 3. Minimum and maximum percentage of salt.

4. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
5. Minimum percentage of magnesium.
6. Minimum percentage of potassium.
7. Minimum selenium in parts per million (ppm).
8. Minimum vitamin A, other than the precursors of vitamin A, in international units per pound.
- e. Required guarantees for equine formula feeds.
 - (1) Animal classes.
 1. Foal.
 2. Mare.
 3. Breeding.
 4. Maintenance.
 - (2) Guaranteed analysis for equine complete feeds and supplements (all animal classes).
 1. Minimum percentage of crude protein.
 2. Minimum percentage of crude fat.
 3. Maximum percentage of crude fiber.
 4. Minimum and maximum percentage of calcium.
 5. Minimum percentage of phosphorus.
 6. Minimum copper in parts per million (ppm).
 7. Minimum selenium in parts per million (ppm).
 8. Minimum zinc in parts per million (ppm).
 9. Minimum vitamin A, other than the precursors of vitamin A, in international units per pound (if added).
 - (3) Guaranteed analysis for equine mineral feeds (all animal classes).
 1. Minimum and maximum percentage of calcium.
 2. Minimum percentage of phosphorus.
 3. Minimum and maximum percentage of salt (if added).
 4. Minimum and maximum percentage of sodium shall be guaranteed only when the total sodium exceeds that furnished by the maximum salt guarantee.
 5. Minimum copper in parts per million (ppm).
 6. Minimum selenium in parts per million (ppm).
 7. Minimum zinc in parts per million (ppm).
 8. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).
- f. Required guarantees for goat and sheep formula feeds.
 - (1) Animal classes.
 1. Starter.
 2. Grower.
 3. Finisher.
 4. Breeder.
 5. Lactating.
 - (2) Guaranteed analysis for goat and sheep complete feeds and supplements (all animal classes).
 1. Minimum percentage of crude protein.
 2. Maximum percentage of equivalent crude protein from nonprotein nitrogen (NPN) when added.
 3. Minimum percentage of crude fat.
 4. Maximum percentage of crude fiber.
 5. Minimum and maximum percentage of calcium.
 6. Minimum percentage of phosphorus.
 7. Minimum and maximum percentage of salt (if added).
 8. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

9. Minimum and maximum copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm).
10. Minimum selenium in parts per million (ppm).
11. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).
 - g. Required guarantees for duck and geese formula feeds.
 - (1) Animal classes.
 1. Ducks.
 - Starter - 0 to 3 weeks of age.
 - Grower - 3 to 6 weeks of age.
 - Finisher - 6 weeks to market.
 - Breeder developer - 8 to 19 weeks of age.
 - Breeder - 22 weeks to end of lay.
 2. Geese.
 - Starter - 0 to 4 weeks of age.
 - Grower - 4 to 8 weeks of age.
 - Finisher - 8 weeks to market.
 - Breeder developer - 10 to 22 weeks of age.
 - Breeder - 22 weeks to end of lay.
 - (2) Guaranteed analysis for duck and geese complete feeds and supplements (for all animal classes).
 1. Minimum percentage of crude protein.
 2. Minimum percentage of crude fat.
 3. Maximum percentage of crude fiber.
 4. Minimum and maximum percentage of calcium.
 5. Minimum percentage of phosphorus.
 6. Minimum and maximum percentage of salt (if added).
 7. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
 - h. Required guarantees for fish complete feeds and supplements.
 - (1) Animal species shall be declared in lieu of animal class.
 1. Trout.
 2. Catfish.
 3. Species other than trout or catfish.
 - (2) Guaranteed analysis for all fish complete feeds and supplements.
 1. Minimum percentage of crude protein.
 2. Minimum percentage of crude fat.
 3. Maximum percentage of crude fiber.
 4. Minimum percentage of phosphorus.
 - i. Required guarantees for rabbit complete feeds and supplements.
 - (1) Animal classes.
 1. Grower - 4 to 12 weeks of age.
 2. Breeder - 12 weeks of age and over.
 - (2) Guaranteed analysis for rabbit complete feeds and supplements (all animal classes).
 1. Minimum percentage of crude protein.
 2. Minimum percentage of crude fat.
 3. Minimum and maximum percentage of crude fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units).
 4. Minimum and maximum percentage of calcium.
 5. Minimum percentage of phosphorus.
 6. Minimum and maximum percentage of salt (if added).
 7. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

8. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

j. The required guarantees of grain mixtures with or without molasses and feeds other than those described in 41.3(4) “*a*” to “*i*” shall include the following items, unless exempted in paragraph “*k*,” in the order listed:

- (1) Animal class(es) and species for which the product is intended.
- (2) Guaranteed analysis.
 1. Minimum percentage of crude protein.
 2. Maximum or minimum percentage of equivalent crude protein from nonprotein nitrogen as required in 41.4(5).
 3. Minimum percentage of crude fat.
 4. Maximum percentage of crude fiber.
 5. Minerals in formula feeds, to include in the following order:
 - Minimum and maximum percentage of calcium.
 - Minimum percentage of phosphorus.
 - Minimum and maximum percentage of salt (if added).
 - Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
 - Other minerals.
 6. Minerals in feed ingredients - as specified by the official definitions of the Association of American Feed Control Officials.
 7. Vitamins in such terms as specified in 41.4(3).
 8. Total sugars as invert on dried molasses products or products being sold primarily for their sugar content.
 9. Viable lactic acid-producing microorganisms for use in silages in terms specified in 41.4(7).
 10. A commercial feed (e.g., vitamin/mineral premix, base mix) intended to provide a specialized nutritional source for use in the manufacture of other feeds must state its intended purpose and guarantee those nutrients relevant to such stated purpose. Article II of AAFCO’s “Criteria for Labeling Nutritional Indicators” is not applicable to the label guarantees for these specialized commercial feeds.

k. Exemptions.

(1) A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:

1. The feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or
2. The feed or feed ingredient is intended for non-food-producing animals and contains less than 6.5 percent total mineral.

(2) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

(3) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product such as drug premixes, mineral or vitamin supplements, and molasses.

(4) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made.

(5) The indication for animal class(es) and species is not required on single-ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.

41.3(5) Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Iowa Code section 198.5(1) “*d*.”

a. The name of each ingredient as defined in the official publication of the Association of American Feed Control Officials, common or usual name, or one approved by the secretary.

b. Collective terms for the grouping of feed ingredients as defined in the official definitions of feed ingredients published in the official publication of the Association of American Feed Control Officials in lieu of the individual ingredients; provided that:

(1) When a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label.

(2) The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

c. The registrant may affix the statement "Ingredients as registered with the state" in lieu of ingredient list on the label. The list of ingredients must be on file with the secretary. This list shall be made available to the feed purchaser upon request.

41.3(6) Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by 21—41.7(198) and 21—41.8(198) appear elsewhere on the label.

41.3(7) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and ZIP code; however, the street address may be omitted if it is shown in the current city directory or telephone directory.

41.3(8) Quantity statement.

21—41.4(198) Expression of guarantees.

41.4(1) The guarantees for crude protein, equivalent crude protein from nonprotein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber and acid detergent fiber shall be in terms of percentage.

41.4(2) Mineral guarantees.

a. When the calcium, salt, and sodium guarantees are given in the guaranteed analysis, such shall be stated and conform to the following:

(1) When the minimum is below 2.5 percent, the maximum shall not exceed the minimum by more than 0.5 percentage point.

(2) When the minimum is 2.5 percent but less than 5.0 percent, the maximum shall not exceed the minimum by more than one percentage point.

(3) When the minimum is 5.0 percent or greater, the maximum shall not exceed the minimum by more than 20 percent of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.

b. When stated, guarantees for minimum and maximum total sodium and salt: minimum potassium, magnesium, sulfur, and phosphorus and maximum fluoride shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1 percent) or greater.

c. Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquids) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

41.4(3) Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in mg/lb or in units consistent with those employed for the quantity statement unless otherwise specified:

a. Vitamin A, other than precursors of vitamin A, in international units per pound.

b. Vitamin D₃ in products offered for poultry feeding, in international chick units per pound.

c. Vitamin D for other uses, in international units per pound.

d. Vitamin E, in international units per pound.

e. Concentrated oils and feed additive premixes containing vitamin A, D or E, or a combination of all three, may, at the option of the distributor, be stated in units per gram instead of units per pound.

f. Vitamin B₁₂, in milligrams or micrograms per pound.

g. All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione, riboflavin, d-pantothenic acid, thiamine, niacin, vitamin B₆, folic acid, choline, biotin, inositol, p-amino benzoic acid, ascorbic acid, and carotene.

41.4(4) Guarantees for drugs shall be stated in terms of percent by weight, except:

a. Antibiotics present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed.

b. Antibiotics present at 2,000 or more grams per ton (total) of commercial feed shall be stated in grams per pound of commercial feed.

c. Labels for commercial feeds containing growth promotion or feed efficiency levels of antibiotics, or both, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the federal food additive regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic.

d. The term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.

41.4(5) Commercial feeds containing any added nonprotein nitrogen shall be labeled as follows:

a. For ruminants.

(1) Complete feeds, supplements, and concentrates containing added nonprotein nitrogen and containing more than 5 percent protein from natural sources shall be guaranteed as follows:

1. Crude protein, minimum, _____ %

2. (This includes not more than _____ % equivalent crude protein from nonprotein nitrogen.)

(2) Mixed feed concentrates and supplements containing less than 5 percent protein from natural sources may be guaranteed as follows:

Equivalent crude protein from nonprotein nitrogen, minimum, _____ %

(3) Ingredient sources of nonprotein nitrogen such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or other basic nonprotein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows:

1. Nitrogen, minimum, _____ %

2. Equivalent crude protein from nonprotein nitrogen, minimum, _____ %

b. For nonruminants.

(1) Complete feeds, supplements and concentrates containing crude protein from all forms of nonprotein nitrogen, added as such, shall be labeled as follows:

1. Crude protein, minimum, _____ %

2. (This includes not more than _____ % equivalent crude protein which is not nutritionally available to (species of animal for which feed is intended).)

(2) Premixes, concentrates or supplements intended for nonruminants containing more than 1.25 percent equivalent crude protein from all forms of nonprotein nitrogen, added as such, must contain adequate directions for use and a prominent statement:

WARNING: This feed must be used only in accordance with directions furnished on the label.

41.4(6) Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

41.4(7) Guarantees for microorganisms shall be stated in colony-forming units per gram (CFU/g) when directions are for using the product in grams, or in colony-forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

41.4(8) Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be specified, such as: protease (bacillus subtilis) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

21—41.5(198) Suitability.

41.5(1) The nutritional content of commercial feed shall be as purported or is represented to possess by its labeling. Such animal feed, its labeling and intended use must be suitable for the intended purpose of the product.

41.5(2) Commercial feeds for swine, poultry, and fish, and milk replacer for veal calves and herd replacement calves, when fed according to directions, must meet the nutritional requirements established by:

a. The committee on animal nutrition of the National Research Council of the National Academy of Sciences, or

b. A signed affidavit attesting to the nutritional adequacy of the feed based upon valid scientific evidence. Such affidavit shall be submitted to the secretary upon request.

(1) An affidavit certifying the feed sponsor has valid scientific knowledge which ensures suitability of the nutritional content of the feed product shall be submitted to the secretary only when the suitability of a product is challenged.

(2) Submission of a completed “Affidavit of Suitability” shall serve as proof of suitability and therefore the feed sponsor shall not be required to provide scientific information nor any reference thereto unless the secretary has reason to believe that such product is not suitable for its intended use. In such case the secretary shall have the authority to conduct a hearing pursuant to 21—subrule 2.2(5), Iowa Administrative Code, requiring the feed sponsor to produce sufficient scientific and other evidence of the product’s suitability.

(3) Upon receipt of a completed “Affidavit of Suitability,” the feed sponsor may continue to market the product. When such affidavit is not adequately submitted, the secretary may continue to withdraw the feed from distribution and order its removal from the marketplace as well as all other feeds manufactured or distributed under the same product name.

(4) The affidavit of suitability shall contain the following information:

1. The feed company’s name;

2. The feed’s product name;

3. The name and title of the affiant submitting the document;

4. The statement that the affiant has knowledge of the nutritional content of the listed feed product and is familiar with the nutritional requirements for the animal species and animal class(es) for which the product is intended as established by the National Research Council of the National Academy of Sciences;

5. The statement that the affiant has knowledge of valid scientific evidence that supports the suitability of the product for the intended animal species and animal class(es) for which the feed is intended;

6. The date of submission; and

7. The signature of the affiant notarized by a certified notary public.

21—41.6(198) Ingredients.

41.6(1) The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the official definitions of feed ingredients as published in the official publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the secretary.

41.6(2) The name of each ingredient must be shown in letters or type of the same size.

41.6(3) No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

41.6(4) The term “dehydrated” may precede the name of any product that has been artificially dried.

41.6(5) A single ingredient product defined by the Association of American Feed Control Officials is not required to have an ingredient statement.

41.6(6) Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition (e.g., sugar).

41.6(7) When the word “iodized” is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007 percent iodine, uniformly distributed.

21—41.7(198) Directions for use and precautionary statements.

41.7(1) Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or nonnutritive additives) shall:

a. Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and

b. Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act.

41.7(2) Adequate directions for use and precautionary statements are required for feeds containing nonprotein nitrogen as specified in 21—41.8(198).

41.7(3) Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

21—41.8(198) Nonprotein nitrogen.

41.8(1) Urea and other nonprotein nitrogen products defined in the official publication of the Association of American Feed Control Officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75 percent of equivalent crude protein from all forms of nonprotein nitrogen, added as such, or the equivalent crude protein from all forms of nonprotein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement “CAUTION: USE AS DIRECTED.” The directions for use and the caution statement shall be in type of such size so placed on the label that the directions will be read and understood by ordinary persons under customary conditions of purchase and use.

41.8(2) Nonprotein nitrogen defined in the official publication of the Association of American Feed Control Officials, when so indicated, is an acceptable ingredient in commercial feeds distributed to nonruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from nonprotein nitrogen sources when used in nonruminant rations shall not exceed 1.25 percent of the total daily ration.

41.8(3) On labels such as those for medicated feeds which bear adequate feeding directions or warning statements, or both, the presence of added nonprotein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of nonprotein nitrogen.

21—41.9(198) Drug and feed additives.

41.9(1) Prior to approval of a product label for commercial feed which contains additives (including drugs, other special purpose additives, or nonnutritive additives), the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

41.9(2) Satisfactory evidence of safety and efficacy of a commercial feed may be:

a. When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are “prior sanctioned” or “informal review sanctioned” or “generally recognized as safe” for such use, or

b. When the commercial feed is itself a drug as defined in Iowa Code section 198.3(6) and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360(b), or

c. When one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended, or

d. When the commercial feed is a direct-fed microbial product and:

(1) The product meets the particular fermentation product definition; and

(2) The microbial content statement, as expressed in the labeling, is limited to the following: "Contains a source of live (viable) naturally occurring microorganisms." This statement shall appear on the label; and

(3) The source is stated with a corresponding guarantee expressed in accordance with 41.4(7).

e. When the commercial feed is an enzyme product and:

(1) The product meets the particular enzyme definition defined by the Association of American Feed Control Officials; and

(2) The enzyme is stated with a corresponding guarantee expressed in accordance with 41.4(8).

21—41.10(198) Adulterants.

41.10(1) For the purpose of Iowa Code section 198.7, the term "poisonous or deleterious substances" includes but is not limited to the following:

a. Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20 percent for breeding and dairy cattle; 0.30 percent for slaughter cattle; 0.30 percent for sheep; 0.35 percent for lambs; 0.45 percent for swine; and 0.60 percent for poultry.

b. Fluorine-bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004 percent for breeding and dairy cattle; 0.009 percent for slaughter cattle; 0.006 percent for sheep; 0.01 percent for lambs; 0.015 percent for swine; and 0.03 percent for poultry.

c. Fluorine-bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage with or without limited amounts of grain, that result in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.

d. Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents.

e. Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B₁ (thiamine).

41.10(2) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no viable prohibited weed seeds per pound and not more than 1½ percent by weight of viable restricted weed seeds.

21—41.11(198) Good manufacturing practices. For the purposes of enforcement of Iowa Code section 198.7(4), the secretary adopts the following as current, good manufacturing practices:

41.11(1) The regulations prescribing good manufacturing practices for Type B and Type C medicated feeds as published in the Code of Federal Regulations, Title 21, Part 225, Sections 225.1 to 225.202.

41.11(2) The regulations prescribing good manufacturing practices for Type A medicated articles as published in the Code of Federal Regulations, Title 21, Part 226, Sections 226.1 to 226.115.

21—41.12(198) Cottonseed product control. Every shipment of whole cottonseed being sold in Iowa for animal feed use shall either be accompanied by a laboratory analysis for aflatoxin B1 and the distributor shall provide the laboratory analysis with the bill of lading or invoice to the first purchaser of the whole cottonseed being sold for animal feed use or the shipment shall be tested by the first purchaser. The first purchaser shall provide a copy of the laboratory analysis to each subsequent purchaser. The whole cottonseed being sold for animal feed use must meet all livestock feeding guidelines established by the Food and Drug Administration regarding aflatoxin B1. Whole cottonseed sold for animal feed

use which does not meet the guidelines established by the Food and Drug Administration will be considered adulterated under the provisions of Iowa Code section 198.7.

[ARC 2676C, IAB 8/17/16, effective 9/21/16]

These rules are intended to implement Iowa Code chapter 198.

[Filed March 11, 1964; amended September 25, 1973, November 8, 1974]

[Filed 8/30/76, Notice 7/26/76—published 9/22/76, effective 10/27/76]

[Filed 10/13/78, Notice 7/26/78—published 11/1/78, effective 12/21/78]

[Filed 3/30/79, Notice 2/21/79—published 4/18/79, effective 5/23/79]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

[Filed 7/24/98, Notice 6/3/98—published 8/12/98, effective 9/16/98]

[Filed 2/11/05, Notice 11/24/04—published 3/2/05, effective 4/6/05]

[Filed ARC 2676C (Notice ARC 2585C, IAB 6/22/16), IAB 8/17/16, effective 9/21/16]

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CHAPTER 1 DESCRIPTION OF ORGANIZATION

[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

193B—1.1(544A,17A) Duties. The board shall enforce the provisions of Iowa Code chapter 544A and shall maintain a roster of all registered architects authorized to practice architecture in the state.

1.1(1) *President.* The president shall preside at all meetings, shall appoint all committees, shall sign all certificates, and shall otherwise perform all duties pertaining to the office of the president.

1.1(2) *Vice president.* The vice president shall, in the absence or incapacity of the president, exercise the duties and possess the powers of the president. The vice president shall sign all certificates.

1.1(3) *Secretary.* The secretary shall sign all certificates.

1.1(4) *Board administrator.* The professional licensing and regulation bureau may employ a board administrator, who will maintain all necessary records of the board and perform all duties in connection with the operation of the board office. The board administrator is the lawful custodian of board records. The board administrator shall determine when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations, and the board administrator shall submit to the board any questionable application. The bureau chief or designee shall sign vouchers for payment of board obligations.

[ARC 1505C, IAB 6/25/14, effective 7/30/14; ARC 2674C, IAB 8/17/16, effective 9/21/16]

193B—1.2(544A,17A) Office of the board. The mailing address of the board shall be: Iowa Architectural Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

[ARC 1505C, IAB 6/25/14, effective 7/30/14]

193B—1.3(544A,17A) Meetings. Calls for meetings shall be issued in accordance with Iowa Code section 21.4. The annual meeting of the board shall be the first meeting scheduled after April 30. At this meeting, the president, vice president and secretary shall be elected to serve until their successors are elected. Special meetings may be called by the president or board administrator, who shall set the time and place of the meeting.

[ARC 1505C, IAB 6/25/14, effective 7/30/14; ARC 2674C, IAB 8/17/16, effective 9/21/16]

193B—1.4(544A,17A) Certificates. Certificates issued to successful applicants shall contain the registrant's name, state registration number and the signatures of the board president, vice president and secretary. All registrations are renewable biennially on July 1, with registrants whose last names begin with the letters A-K renewing in even-numbered years and registrants whose last names begin with the letters L-Z renewing in odd-numbered years as provided in rule 193B—2.5(17A,272C,544A).

The board shall maintain an electronic roster of those holders of certificates of registration who have failed to renew. The certificate of registration may be reinstated in accord with rule 193B—2.4(544A,17A).

[ARC 1505C, IAB 6/25/14, effective 7/30/14]

193B—1.5(544A,17A) Definitions. Rescinded IAB 10/3/01, effective 11/7/01.

These rules are intended to implement Iowa Code sections 544A.5, 544A.8 to 544A.10, and 272C.4.

[Filed 4/8/70, amended 1/2/74]

[Filed 10/1/76, Notice 9/8/76—published 10/20/76, effective 12/8/76]

[Filed 3/15/78, Notice 11/30/77—published 4/5/78, effective 5/10/78]

[Filed 5/8/81, Notice 4/1/81—published 5/27/81, effective 7/1/81]

[Filed 2/7/83, Notice 12/22/82—published 3/2/83, effective 4/6/83]

[Filed 6/24/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]

[Filed 3/30/89, Notice 1/25/89—published 4/19/89, effective 5/24/89]

[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 4/10/91]

[Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]

[Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]

[Filed 6/15/95, Notice 4/26/95—published 7/5/95, effective 8/9/95]

[Filed 9/20/96, Notice 7/31/96—published 10/9/96, effective 11/13/96]

[Filed 3/21/97, Notice 2/12/97—published 4/9/97, effective 5/14/97]

[Filed 4/30/98, Notice 12/31/97—published 5/20/98, effective 6/24/98]

[Filed 5/13/99, Notice 2/24/99—published 6/2/99, effective 7/7/99]

[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]

[Filed ARC 1505C (Notice ARC 1251C, IAB 12/25/13), IAB 6/25/14, effective 7/30/14]

[Filed ARC 2674C (Notice ARC 2480C, IAB 3/30/16), IAB 8/17/16, effective 9/21/16]

CHAPTER 2 REGISTRATION

[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

193B—2.1(544A,17A) Definitions. The following definitions apply as used in Iowa Code chapter 544A, and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Applicant*” means an individual who has submitted an application for registration to the board.

“*Architectural intern*” means an individual who holds a professional degree from a NAAB-accredited program, has completed or is currently enrolled in the NCARB Architectural Experience Program (AXP), formerly known as the Intern Development Program (IDP), and intends to actively pursue registration by completing the Architect Registration Examination.

“*ARE*” means the current Architect Registration Examination, as prepared and graded by the National Council of Architectural Registration Boards (NCARB).

“*AXP applicant*” means an individual who has completed the AXP training requirements set forth in the NCARB Architectural Experience Program Guidelines, formerly known as the IDP Guidelines, and has submitted an application for registration to the board.

“*Examination*” means the current Architect Registration Examination (ARE) accepted by the board.

“*Inactive*” means that an architect is not engaged in Iowa in any practice for which a certificate of registration is required.

“*Intern architect*” has the same meaning as “architectural intern.”

“*Issuance*” means the date of mailing of a decision or order or the date of delivery if service is by other means unless another date is specified in the order.

“*NAAB*” means the National Architectural Accrediting Board.

“*NCARB*” means the National Council of Architectural Registration Boards.

“*NCARB Architect Registration Examination (ARE) Guidelines*” means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for examination and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington, D.C. 20006; NCARB’s Web site www.ncarb.org; or the architectural examining board.

“*NCARB Architectural Experience Program Guidelines*,” formerly known as the IDP Guidelines, means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for training and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington, D.C. 20006; NCARB’s Web site www.ncarb.org; or the architectural examining board.

“*NCARB Certification Guidelines*” means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for registration as an architect and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington, D.C. 20006; NCARB’s Web site www.ncarb.org; or the architectural examining board.

“*Retired*” means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

[ARC 2674C, IAB 8/17/16, effective 9/21/16]

193B—2.2(544A,17A) Application by reciprocity. Applicants for registration are required to make application to the National Council of Architectural Registration Boards (NCARB) for a certificate. A completed state application form (available on the board’s Web site) and a completed NCARB certificate, received within three months of application, shall be filed in the board office before an application will be considered by the board.

2.2(1) Registration requirements. The board or the board administrator may waive examination requirements for applicants who, at the time of application, are registered as architects in a different jurisdiction, where the applicant’s qualifications for registration are substantially equivalent to those required of applicants for initial registration in this state. All such applicants who hold an active

NCARB certificate shall be deemed to possess qualifications that are substantially equivalent to those required of applicants for initial registration in this state.

2.2(2) *Applicants seeking architectural commission in Iowa.* A person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being registered in this state if:

- a.* The person holds an NCARB certificate; and
- b.* The person holds a current and valid registration issued by a registration authority recognized by this state; and
- c.* The person notifies the board in writing on a form provided by the board that the person:
 - (1) Holds an NCARB certificate and a current and valid registration issued by a registration authority recognized by this state,
 - (2) Is not currently registered in this state but will be present in this state for the purpose of offering to provide architectural services on a temporary basis, and
 - (3) Has no previous or pending disciplinary action by any registration authority; and
- d.* The person delivers a copy of the notice referred to in paragraph “c” to every potential client to whom the person offers to provide architectural services; and
- e.* The person provides the board with a sworn statement of intent to apply immediately to the board for registration if selected as the architect for a project in this state.

The person is prohibited from actually providing architectural services until the person has been issued a valid registration in this state.

2.2(3) *Board refusal to issue registration.* The board may refuse to issue a certificate of registration to any person otherwise qualified upon any of the grounds for which a certificate of registration may be revoked or suspended or may otherwise discipline a registrant based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, “disciplinary action” includes the voluntary surrender of a registration to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

[ARC 7737B, IAB 5/6/09, effective 6/10/09; ARC 2674C, IAB 8/17/16, effective 9/21/16]

193B—2.3(544A,17A) Application for registration by examination.

2.3(1) Eligibility.

a. To be admitted to the examination, an applicant for registration shall:

(1) Have completed the eligibility requirements of the education standards for NCARB certification, which include a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) or be a student actively participating in an NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within a NAAB-accredited professional degree program in architecture, and

(2) Be enrolled in or have completed the NCARB Architectural Experience Program.

b. NCARB shall notify the testing service of the applicant’s eligibility prior to the applicant’s scheduling of an examination.

2.3(2) Documentation of AXP training units shall be submitted on AXP report forms published by NCARB and shall be verified by signatures of the registered architects serving as the intern architect’s supervisor in accordance with the requirements outlined in the NCARB Architectural Experience Program Guidelines. The completed AXP report form shall demonstrate attainment of an aggregate of the minimum number of value units in each training area and shall be submitted to NCARB for evaluation.

2.3(3) All eligibility requirements shall have been verified and satisfied in accordance with the NCARB Architectural Experience Program Guidelines, which is available through NCARB’s Web site www.ncarb.org or the architectural examining board.

2.3(4) Applicants who have passed one or more but not all divisions of the ARE shall have a rolling five-year period to pass each of the remaining divisions. A passing grade for any remaining division shall be valid for five years, after which time the division must be retaken if all remaining divisions have

not been passed. The rolling five-year period shall commence on the date when the first division that has been passed is administered.

2.3(5) To be eligible for registration, all applicants shall have passed all divisions of the ARE prepared and provided by NCARB, have completed the NCARB Architectural Experience Program, and have attained an NCARB council record. A completed NCARB council record shall be transmitted to and filed in the board office within three months of application. Upon receipt of the council record, the board shall provide the applicant with an application for registration form. The board shall issue a registration number to the applicant upon receipt of the completed application form and appropriate fee.

2.3(6) The board may refuse to issue a certificate of registration to any person otherwise qualified upon any of the grounds for which a registration may be revoked or suspended or may otherwise discipline a registrant based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, “disciplinary action” includes the voluntary surrender of a registration to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

[ARC 8638B, IAB 4/7/10, effective 5/12/10; ARC 1624C, IAB 9/17/14, effective 10/22/14; ARC 2674C, IAB 8/17/16, effective 9/21/16]

193B—2.4(544A,17A) Examination. Examinations for registration as an architect shall be conducted by the board or its authorized representative.

2.4(1) Content and grading of the examination. The board shall make use of the ARE prepared and graded by NCARB under a plan of cooperation with the architectural examining boards of all states and territories of the United States.

2.4(2) Testing service. The board may make use of a testing service selected by NCARB to administer the examination, provided the examination is held in at least one location within the boundaries of this state.

193B—2.5(17A,272C,544A) Renewal of certificates of registration.

2.5(1) Active status. Certificates of registration expire biennially on June 30. In order to maintain authorization to practice in Iowa, a registrant is required to renew the certificate of registration prior to the expiration date. A registrant who fails to renew by the expiration date is not authorized to practice architecture in Iowa until the certificate is reinstated as provided in rule 193B—2.6(544A,17A).

a. A registrant whose last name begins with the letter A through K shall renew in even-numbered years, and a registrant whose last name begins with the letter L through Z shall renew in odd-numbered years.

b. It is the policy of the board to send to each registrant a notice of the pending expiration date at the registrant’s last-known address approximately one month prior to the date the certificate of registration is scheduled to expire. The notice, when provided, may be by e-mail communication or in the quarterly newsletter. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee. A registrant should contact the board office if the registrant does not receive a renewal notice prior to the date of expiration.

c. Upon the board’s receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board’s administrator shall issue a new certificate of registration reflecting the next expiration date, unless grounds exist for denial of the application. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

d. If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education as required as a condition for registration. If the basis for denial is pending disciplinary action or disciplinary investigation which is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board’s decision as provided in 193—subrule 7.40(1).

e. When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—subrule 7.40(1).

f. The board may notify a registrant whose certificate of registration has expired. The failure of the board to provide this courtesy notification or the failure of the registrant to receive the notification shall not extend the date of expiration.

g. A registrant who continues to practice architecture in Iowa after the registration has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

2.5(2) Inactive status. This subrule establishes a procedure under which a person issued a certificate of registration as an architect may apply to the board to register as inactive. Registration under this subrule is available to a certificate holder residing within or outside the state of Iowa who is not engaged in Iowa in any practice for which a certificate of registration as an architect is required. A person eligible to register as inactive may, as an alternative to such registration, allow the certificate of registration to lapse. During any period of inactive status, a person shall not use the title "architect" or any other title that might imply that the person is offering services as an architect by such an action in violation of Iowa Code section 544A.15. The board will continue to maintain a data base of persons registered as inactive, including information which is not routinely maintained after a certificate has lapsed through the person's failure to renew. A person who registers as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board.

a. Affirmation. The renewal application form shall contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code section 544A.16 without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193B—2.7(544A).

b. Renewal. A person registered as inactive may renew the person's certificate of registration on the biennial schedule described in 193B—2.5(17A,272C,544A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193B—2.9(544A,17A). An inactive certificate of registration shall lapse if not timely renewed. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

c. Permitted practices. A person may, while registered as inactive, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided by a person to whom a certificate of registration has never been issued. Such services may be performed as long as the person does not in connection with such services use the title "architect" or any other title restricted for use only by architects pursuant to Iowa Code section 544A.15 (with or without additional designations such as "inactive" or "retired"). Restricted titles may be used only by active architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education.

d. Prohibited practices. A person who, while registered as inactive, engages in any of the practices described in Iowa Code sections 544A.15 and 544A.16 is subject to disciplinary action.

2.5(3) Retired status. A person who held a registration as an architect and who does not reasonably expect to return to the workforce in any capacity for which a certificate of registration is required due to

bona fide retirement or disability may apply to the board for retired status and, if granted, may use the title “architect retired” in the context of non-income-producing personal activities. If the board determines an applicant is eligible, the retired status would become effective on the first scheduled registration renewal date. Applicants do not need to reinstate an expired registration to be eligible for retired status. Applicants may apply for retired status on forms provided by the board. The board will not provide a refund of biennial registration fees if an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Persons registered in retired status are exempt from the renewal requirement.

a. Affirmation. The retired status application form shall contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code section 544A.16 without first complying with all rules governing reinstatement to active status. A person in retired status may reinstate to active status at any time pursuant to rule 193B—2.7(544A).

b. Permitted practices. Persons registered in retired status may engage in the practices identified in paragraph 2.5(2) “c.” Such persons may also provide services as technical experts before a court, including prelitigation preparation, discovery, and testimony, on matters directly related to architectural services provided by such persons prior to registering with the board in retired status.

c. Exemption. A person whose registration as an architect has been placed on probation, suspended, revoked, or voluntarily surrendered in connection with a disciplinary investigation or proceeding shall not be eligible for retired status unless, upon appropriate application, the board first reinstates the registration to good standing.

[ARC 1210C, IAB 12/11/13, effective 1/15/14; ARC 1504C, IAB 6/25/14, effective 7/30/14; ARC 1624C, IAB 9/17/14, effective 10/22/14; ARC 1985C, IAB 4/29/15, effective 4/10/15; ARC 2674C, IAB 8/17/16, effective 9/21/16]

193B—2.6(544A,17A) Reinstatement of lapsed certificate of registration to active status. An individual may reinstate a lapsed certificate of registration to active registration as follows:

2.6(1) Pay the current renewal fee.

2.6(2) Pay the reinstatement fee of \$100 plus \$25 per month or partial month of expired registration up to a maximum of \$750. All applicants for reinstatement shall be assessed the \$100 reinstatement fee. The \$25 per month shall not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active architect registration is required in Iowa. Falsely claiming an exemption from the monthly fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice.

2.6(3) Provide a written statement outlining the applicant’s professional activities performed in Iowa during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

2.6(4) Submit documented evidence of completion of 24 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 12 continuing education hours for each year or portion of a year of expired registration up to a maximum of 48 continuing education hours. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities and be in compliance with requirements in 193B—Chapter 3. The continuing education hours used for reinstatement may not be used again at the next renewal. Out-of-state residents may submit a statement from their resident state’s licensing board as documented evidence of compliance with their resident state’s mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

[ARC 1624C, IAB 9/17/14, effective 10/22/14; ARC 1985C, IAB 4/29/15, effective 4/10/15; ARC 2674C, IAB 8/17/16, effective 9/21/16]

193B—2.7(544A) Reinstatement from inactive status or retired status to active status.

2.7(1) An individual may reinstate an inactive registration to active registration as follows:

a. Pay one-half of the current active registration fee.

b. Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of registration to active status, the person shall not be required to report continuing education hours.

(2) At the first biennial renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of registration to active status, the person shall report 12 hours of previously unreported continuing education hours.

c. Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of inactive registration.

2.7(2) An individual may reinstate a retired registration to active registration as follows:

a. Pay the current active registration fee. If the individual is reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active registration fee shall be paid.

b. Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of registration to active status, the person shall not be required to report continuing education hours.

(2) At the first biennial renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of registration to active status, the person shall report 12 hours of previously unreported continuing education hours.

c. Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of retired registration.

2.7(3) An individual shall not be allowed to reinstate to inactive status from retired status.

[ARC 1624C, IAB 9/17/14, effective 10/22/14; ARC 1985C, IAB 4/29/15, effective 4/10/15; ARC 2674C, IAB 8/17/16, effective 9/21/16]

193B—2.8(544A,17A) Finding of probable cause for unlicensed practice. The board may find probable cause to file charges for unlicensed practice if the individual continues to offer services defined as the practice of architecture outlined in Iowa Code section 544A.16 while using the title “architect,” “architectural designer,” or similar designation during the period of lapsed registration.

[ARC 1624C, IAB 9/17/14, effective 10/22/14; ARC 1985C, IAB 4/29/15, effective 4/10/15; ARC 2674C, IAB 8/17/16, effective 9/21/16]

193B—2.9(544A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB

Initial registration fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and registration fee	\$200
Biennial renewal fee	\$200
Biennial renewal fee (inactive)	\$100

Retired status	None
Reinstatement of lapsed individual registration	\$100 + renewal fee + \$25 per month or partial month of expired registration
Reinstatement of inactive individual registration	\$100
Reinstatement of retired individual registration	\$200
Duplicate wall certificate fee	\$ 50
Late renewal fee	\$ 25
(for renewals postmarked on or after July 1 and before July 30)	

[ARC 1210C, IAB 12/11/13, effective 1/15/14; ARC 1504C, IAB 6/25/14, effective 7/30/14; ARC 1624C, IAB 9/17/14, effective 10/22/14; ARC 1985C, IAB 4/29/15, effective 4/10/15; ARC 2674C, IAB 8/17/16, effective 9/21/16]

These rules are intended to implement Iowa Code chapters 544A and 17A.

[Filed 10/1/76, Notice 9/8/76—published 10/20/76, effective 12/8/76]

[Filed 3/15/78, Notice 11/30/77—published 4/5/78, effective 5/10/78]

[Filed 1/23/81, Notice 9/3/80—published 2/18/81, effective 3/25/81]

[Filed 5/8/81, Notice 4/1/81—published 5/27/81, effective 7/1/81]

[Filed 2/7/83, Notice 12/22/82—published 3/2/83, effective 4/6/83]

[Filed 9/13/85, Notice 6/19/85—published 10/9/85, effective 11/13/85]

[Filed 10/8/87, Notice 7/15/87—published 11/4/87, effective 12/9/87]

[Filed 6/24/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]

[Filed 3/30/89, Notice 1/25/89—published 4/19/89, effective 5/24/89]

[Filed 9/15/89, Notice 7/12/89—published 10/4/89, effective 11/8/89]

[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 4/10/91]

[Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]

[Filed 3/12/93, Notice 2/3/93—published 3/31/93, effective 5/5/93]

[Filed 1/14/94, Notice 11/10/93—published 2/2/94, effective 3/23/94]

[Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]

[Filed 4/5/96, Notice 1/3/96—published 4/24/96, effective 5/29/96]

[Filed 9/20/96, Notice 7/31/96—published 10/9/96, effective 11/13/96]

[Filed 4/30/98, Notice 12/31/97—published 5/20/98, effective 6/24/98]

[Filed 11/12/98, Notice 6/17/98—published 12/2/98, effective 1/6/99]

[Filed 11/12/98, Notice 8/12/98—published 12/2/98, effective 1/6/99]

[Filed 5/13/99, Notice 2/24/99—published 6/2/99, effective 7/7/99]

[Filed 1/12/00, Notice 10/20/99—published 2/9/00, effective 3/15/00]

[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]

[Filed 9/26/02, Notice 6/12/02—published 10/16/02, effective 11/20/02]

[Filed 1/30/03, Notice 12/11/02—published 2/19/03, effective 3/26/03]

[Filed 7/21/04, Notice 6/9/04—published 8/18/04, effective 9/22/04]

[Filed 9/20/05, Notice 7/6/05—published 10/12/05, effective 11/16/05]

[Filed 9/20/05, Notice 8/3/05—published 10/12/05, effective 11/16/05]

[Filed 11/22/06, Notice 10/11/06—published 12/20/06, effective 1/24/07]

[Filed 7/20/07, Notice 4/25/07—published 8/15/07, effective 9/19/07]

[Filed 9/21/07, Notice 8/15/07—published 10/10/07, effective 2/11/08]

[Filed ARC 7737B (Notice ARC 7545B, IAB 2/11/09), IAB 5/6/09, effective 6/10/09]

[Filed ARC 8638B (Notice ARC 8392B, IAB 12/16/09), IAB 4/7/10, effective 5/12/10]

[Filed ARC 1210C (Notice ARC 0978C, IAB 8/21/13), IAB 12/11/13, effective 1/15/14]

[Filed ARC 1504C (Notice ARC 1282C, IAB 1/8/14), IAB 6/25/14, effective 7/30/14]

[Filed ARC 1624C (Notice ARC 1501C, IAB 6/11/14), IAB 9/17/14, effective 10/22/14]

[Filed Emergency ARC 1985C, IAB 4/29/15, effective 4/10/15]

[Filed ARC 2674C (Notice ARC 2480C, IAB 3/30/16), IAB 8/17/16, effective 9/21/16]

PAROLE BOARD[205]

Rules transferred from agency number 615 to 205 to conform with the reorganization numbering scheme in general.

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CHAPTER 9
CERTIFICATES OF EMPLOYABILITY

205—9.1(906) Definitions. As used in this chapter:

“Direct relationship” means that the nature of criminal conduct for which the eligible offender was convicted has a direct bearing on the offender’s fitness or ability to perform one or more of the duties or responsibilities necessarily related to the certificate of employability sought.

“Eligible offender” means a person who has been convicted of one or more than one eligible crime or eligible offense and has been sentenced to the custody of the director of the Iowa department of corrections. Persons required to register under Iowa Code chapter 692A are ineligible for the certificate of employability program.

“Employment” means any occupation, vocation or employment, or any form of vocational or educational training. For the purposes of this chapter, “employment” shall not include membership in any law enforcement agency.

“Private employer” means any person, company, corporation, labor organization or association.

“Public agency” means the state or any local subdivision thereof, or any state or local department, agency, board or commission.

[ARC 7742B, IAB 5/6/09, effective 6/10/09]

205—9.2(906) Certificates of employability.

9.2(1) The provisions of this chapter shall apply to any application by an eligible offender to any public agency or private employer for employment, except where a mandatory forfeiture, disability or bar to employment is imposed by law and has not been removed by an executive pardon. The provisions of this chapter shall also apply to an application to a licensing agency by an eligible offender to obtain licensure required for employment.

9.2(2) When a certificate of employability is presented to a public agency, the licensing agency cannot deny a license based on the felony conviction or based on a lack of good moral character, unless the agency makes a determination that there is a direct relationship between the offense and the license sought or that the issuance of the license involves unreasonable risk to property or the safety and welfare of specific individuals or the general public.

9.2(3) A certificate of employability shall not, however, in any way prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified therein as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege in accordance with the provisions set out in this chapter.

[ARC 7742B, IAB 5/6/09, effective 6/10/09]

205—9.3(906) Issuance of a certificate of employability.

9.3(1) The department of corrections shall issue a certificate of employability, at the time of release, to an eligible offender who:

- a.* Receives a parole, work release, or early discharge from the board of parole; and
- b.* Successfully completes one of the following:
 - (1) Department of corrections registered apprenticeship program; or
 - (2) National Career Readiness Certificate and the life skills program.

9.3(2) Reserved.

[ARC 7742B, IAB 5/6/09, effective 6/10/09; ARC 2678C, IAB 8/17/16, effective 12/19/16]

205—9.4(906) Certificate not to be deemed a pardon. Nothing contained in this chapter shall be deemed to alter or limit or affect the manner of applying for pardons to the governor, and no certificate issued hereunder shall be deemed or construed to be a pardon.

[ARC 7742B, IAB 5/6/09, effective 6/10/09; ARC 2678C, IAB 8/17/16, effective 12/19/16]

These rules are intended to implement Iowa Code section 906.19.

[Filed ARC 7742B (Notice ARC 7337B, IAB 11/19/08), IAB 5/6/09, effective 6/10/09]

[Filed ARC 2678C (Notice ARC 2590C, IAB 6/22/16), IAB 8/17/16, effective 12/19/16]

CHAPTER 11
PAROLE REVOCATION

[Prior to 2/22/89, Parole, Board of[615] Ch 7]

205—11.1(906) Voluntary termination of parole. Any voluntary termination of parole should be executed in writing by the parolee, reviewed by the parole officer, and approved by an administrative parole judge. Upon the execution of the voluntary termination of parole, the parolee's parole is terminated and the parolee shall be returned to the Iowa Medical and Classification Center at Oakdale as soon as reasonably possible. The administrative parole judge shall, after consultation with the parole officer, determine if the parolee shall be incarcerated prior to the parolee's return to the Iowa Medical and Classification Center. The parole officer shall make arrangements accordingly. The parolee shall receive credit for the time spent on parole prior to the voluntary termination of parole as determined by the administrative parole judge.

205—11.2(908) Work release day reporting revocation. When a work release day reporting inmate is subject to revocation of day reporting status, the work release day reporting inmate shall be entitled to all procedural protections afforded parolees pursuant to Iowa Code sections 908.3 to 908.7 and rules 205—11.3(908) to 205—11.11(908).

205—11.3(908) Revocation initiated. Parole revocation procedures shall be initiated only as provided by Iowa Code chapter 908, which this rule is intended to implement.

205—11.4(908) Revocation of parole. The board of parole or its administrative parole judge, for good cause shown, may revoke any parole previously granted. Good cause for revocation of parole shall include the violation of a condition or conditions of the parole agreement or parole plan. Parole revocation procedures, including the parole revocation hearing, are governed by Iowa Code chapter 17A.

205—11.5(908) Parole violations.

11.5(1) The parole officer shall report to the board any parolee who is reasonably believed to have engaged in any of the following types of behavior:

- a.* Violation of any federal or state laws, except simple misdemeanors.
- b.* Any violent or assaultive conduct.
- c.* Possession, control or use of any firearms, imitation firearms, explosives or weapons as defined in federal or state statutes.
- d.* Sale, possession, continual or problem use, transportation or distribution of any narcotic or other controlled substance or excessive use of alcohol by the parolee.
- e.* A parolee whose whereabouts are unknown and who has been unavailable for contact for 30 days, or about whom reliable information has been received indicating that the parolee is taking flight or absconding.
- f.* Any behavior indicating that the parolee may be suffering from a mental disorder which impairs the parolee's ability to maintain the parolee in the community or which makes the parolee a danger to the parolee or others when the mental disorder cannot be adequately treated while the parolee is in the community.
- g.* Any other conduct or pattern of conduct in violation of the conditions of parole deemed sufficiently serious by the parole officer.

11.5(2) The parole officer or supervisor is authorized to sanction any other parolee misconduct not required to be reported above.

205—11.6(908) Parole violation report. The parole violation report is a document prepared by the parole officer on a form or medium provided by the board specifying the parole violation charges against a parolee and containing or referring to information known to the parole officer relevant to the charges.

11.6(1) *Supplemental parole violation report.* A supplemental parole violation report may be submitted to report sufficient new information or evidence which proves or disproves violations previously charged; note court action on charges which are being prosecuted in a criminal proceeding; expand, clarify, or correct information in an earlier report; provide the board with information not related to the violation but which may affect the board's decision regarding the appropriate disposition; provide additional requested information to the board at any time; or change the parole officer's recommendation. A supplemental report shall be filed upon the apprehension of a parolee on absconder status.

11.6(2) *Recommendations.* The parole officer shall recommend the appropriate disposition necessary to deal with the alleged violation. In a parole violation report, the parole officer may make one of the following recommendations:

a. Continue on parole. This recommendation may be used when a violation charge is not serious enough to warrant reincarceration. A copy of the violation report containing a "continue on parole" recommendation shall be personally delivered and explained to the parolee by the parole officer, and the parolee shall be given an opportunity to admit the alleged violations. Admitted violations contained in the report may be used to adjust time calculations in a later revocation proceeding. In the event that a dispute arises as to alleged violations, the parolee may request a parole hearing. An administrative parole judge shall review the violation report and enter an order either affirming the recommendation to continue on parole or scheduling the matter for a parole revocation hearing.

A parolee shall be allowed only two violation reports containing a "continue on parole" recommendation in a 12-month period, after which a parole revocation hearing must be scheduled.

Generally, violations occurring more than 12 months prior to the request for a parole revocation hearing will not be used to adjust time calculations, except in absconder cases and related matters.

b. Schedule for revocation proceedings. This recommendation may be used whenever the violation(s) alleged is so serious that reincarceration is necessary.

c. Delay action. This recommendation is used when there is a lack of information at the time the report is submitted or because charges are still pending and final disposition is unknown or the whereabouts of the parolee are unknown. The parole officer shall notify the board of the reason(s) for the recommendation to delay action.

d. Issue a detainer. This recommendation is used to request that an Iowa detainer be placed against an Iowa parolee who is serving time in another jurisdiction for an offense committed while on parole which would constitute a felony or aggravated misdemeanor if committed in Iowa.

e. Continue on parole and impose special condition 209A of the parole agreement, participation in the violator's program. This recommendation may be used when there has been a violation of parole, but treatment in the violator's program is seen as a reasonable alternative to revocation of parole.

f. Automatic revocation. This recommendation may be used when a parolee has been convicted of and sentenced for a new felony committed while on parole or when the parolee is convicted and sentenced to incarceration in a state correctional institution for an aggravated misdemeanor committed while on parole.

11.6(3) *District review.*

a. Parole officer's responsibility. After discovery of information indicating a possible violation(s) of parole and determination by the parole officer that the violation(s) must be reported to the board, the parole officer shall prepare a parole violation report.

b. Parole supervisor review. After the preparation of a parole violation report, the supervisor shall review the report. If the supervisor concurs with the recommendation made, the supervisor shall submit the report to the business office of the parole board for review and scheduling of a parole revocation hearing, if required.

205—11.7(908) Parole revocation hearing. Following receipt of a parole officer's request for a parole revocation hearing, the administrative parole judge or board's designated officer shall set the date, time and place of the parole revocation hearing and shall cause a notice of parole revocation hearing to be completed. The parole revocation hearing shall be held in any county in the same judicial district as that

in which the alleged parole violator had the initial appearance, or in the county from which the warrant for the arrest of the alleged parole violator was issued.

11.7(1) *Parole revocation hearing notice.* The parole officer or board's designated officer shall cause to be prepared a written notice to the parolee of the date, time, and place of the parole revocation hearing, which shall:

a. Include a complete copy of the report of violations including all documents referred to therein except confidential material defined in 205—subrule 6.4(2).

b. Be served upon the parolee by personal service. The notice may be served by any person 18 years of age or older at least seven days prior to the parole revocation hearing unless the parolee waives the right to seven days' advance notice.

c. Inform the parolee of the purpose of the hearing, the violations of parole conditions alleged, the circumstances of the alleged violations, the possible action which may be taken as a result of the revocation proceedings, and the following rights to which the parolee shall be entitled at the parole revocation hearing:

(1) To appear and speak in the parolee's own behalf and to be aided by an interpreter if aid is determined to be necessary by the administrative parole judge.

(2) To be represented by an attorney or, if the parolee is indigent, the right to be represented by an attorney pursuant to Rule 2.28 of the Iowa Rules of Criminal Procedure.

(3) To remain silent.

(4) To present witnesses to testify on the parolee's behalf as to matters relevant to the alleged violation of parole.

(5) To confront and cross-examine adverse witnesses unless the administrative parole judge determines that such witnesses would be subjected to risk of harm.

(6) To present documentary evidence and any relevant material or information.

11.7(2) *Testimony at parole revocation hearing.* All testimony shall be under oath.

11.7(3) *Parole revocation hearing recorded.* Parole revocation hearings shall be mechanically recorded. The recording or transcription thereof shall be filed and maintained by the board of parole for at least five years from the date of the parole revocation hearing.

11.7(4) *Witnesses segregated.* The administrative parole judge on the judge's own motion or on the request of the parolee, parolee's counsel, or any representative of the state may order witnesses to be segregated except that the parole officer, parolee, and counsel may be present at all times at the hearing.

11.7(5) *Parole revocation hearing evidence.* The admissibility of evidence at parole revocation proceedings is governed by Iowa Code section 17A.14.

a. Documentary evidence. The parole officer shall ensure that all relevant documentary evidence is available at the hearing and has been made available to the parolee and the parolee's attorney prior to the hearing unless designated confidential. This evidence includes the violation report and statements of witnesses. When relevant documentary evidence is not available, the parole officer shall specify what evidence is unavailable and why.

b. Physical evidence. Physical evidence is ordinarily not required at the hearing. The parole officer may bring physical evidence to the hearing if the parolee has requested it or it appears necessary for the hearing, security is not endangered, and there is no other means of presenting the information.

11.7(6) *Witnesses.*

a. Parolee request. A parolee may request either friendly or adverse witnesses. If a witness is requested by the parolee or the parolee's attorney, the parolee or the parolee's attorney shall notify the parole officer.

b. Parole officer request. If, in preparing the case prior to the hearing, the parole officer requires a particular witness to demonstrate essential facts of violation, attendance of that witness may be requested by the officer even though the parolee has not requested that witness. If a witness is requested by the parole officer, the officer shall notify the parolee or the parolee's attorney.

c. Witnesses' transportation. All witnesses shall provide their own transportation.

d. Fearful witnesses. All witnesses who refuse to attend the hearing either because they would be subjected to risk of harm if their identities were disclosed or who, even if their identities were known,

fear for their safety should they attend the hearing shall be interviewed by the parole officer prior to the hearing, and their information and the reasons for their fear shall be documented in writing or on tape. The administrative parole judge shall determine whether good cause exists to excuse a witness's attendance and shall document the decision including the reasons.

e. Interviewing witnesses. A parolee or the parolee's attorney has the right to speak to possible witnesses, but it is completely within the discretion of an individual witness whether to speak to or disclose the witness's whereabouts to a parolee or the parolee's attorney. No attempt shall be made by the parole board staff to influence the witness's decision.

11.7(7) Subpoenas—general. Subpoenas may be issued to require the attendance of witnesses or the production of documents at parole revocation hearings.

a. Who may request. The parolee, the parolee's attorney, parole officer, or board staff may request that a subpoena be issued.

b. To whom made. Requests shall be made directly to the administrative parole judge or the board's designated officer as appropriate.

c. When made. The request shall be made prior to the scheduled hearing.

d. Subpoena duces tecum. The request for a subpoena duces tecum shall be accompanied by a declaration in support of the request. The declaration must show good cause for production of documentary evidence and specify precisely the documentary evidence to be produced, the relevance and materiality of that evidence to the hearing, and verification that the requested witness has possession or control of the documentary evidence.

e. The board of parole shall not be required to pay subpoena service fees, witness fees, or witness transportation expenses.

11.7(8) Continuances.

a. A hearing may be continued by the presiding administrative parole judge for good cause shown, either upon the presiding judge's own motion or upon the request of a party. A party's request for continuance shall be made in writing to the board's business office prior to the hearing. Each party shall be granted only one continuance except that in the case of extreme emergency, determined by the presiding administrative parole judge, further continuance may be granted.

b. If, because of an emergency or other good cause, a party having received timely notice is unable to attend the hearing or to request continuance within the allotted time, the presiding administrative parole judge may continue the hearing and schedule another hearing with notice to all interested parties.

c. A notice of continuance may be served upon the parolee's attorney of record for the parole revocation proceeding, in lieu of personal service upon the parolee.

d. If a notice of continuance does not involve any new allegations of parole violation, it need not be served upon the parolee or the parolee's attorney of record at least seven days prior to the hearing date. However, if the notice of continuance includes allegations of violations beyond those contained in the original notice of hearing, it must be served upon the parolee or the parolee's attorney of record at least seven days prior to the hearing date.

11.7(9) Areas of responsibility. The following areas of responsibility will apply for a parole revocation hearing.

a. The parole officer shall be responsible for the following:

(1) Coordinating and scheduling location, security, and control of the parole revocation hearing in a courtroom unless good cause is established prior to the hearing;

(2) Preparing notice of hearing forms and causing the notices to be served;

(3) Notifying the parolee's attorney of record of the hearing date, time, and place;

(4) Notifying all necessary state witnesses of the hearing date, time, and place;

(5) Processing any required subpoenas on behalf of the state;

(6) Ensuring that all relevant state documents, forms, and materials are available at the hearing;

(7) Attending the hearing;

(8) Arranging security for posthearing transfer of the parolee in the event incarceration is ordered.

b. The administrative parole judge shall be responsible for the following:

(1) Maintaining records on all hearings in the field;

- (2) Advising the business office regarding progress of each case;
- (3) Forwarding to the business office all materials and forms when hearings are completed.

11.7(10) Parole revocation hearing—adjudication.

a. At the conclusion of the adjudication stage of the hearing, the administrative parole judge shall determine whether the parolee has violated the conditions of parole and shall verbally advise the parolee of the decision.

b. If the administrative parole judge determines that the parolee has not violated the conditions of parole, the judge shall order that the parolee be released from custody and continued on parole.

c. If the administrative parole judge finds that the parolee has violated a condition or conditions of parole, the judge shall make one of the following dispositions at the parole revocation hearing:

- (1) Revocation of parole;
- (2) Revocation of parole with the parolee placed on work release;
- (3) Reinstatement of parole with the previous parole conditions;
- (4) Reinstatement of parole with a modification of the parole conditions;
- (5) Continuation of the dispositional portion of the hearing.

d. The administrative parole judge shall determine from the record established at the final revocation hearing the date(s) of violation of parole. The judge shall also determine the number of days of parole which shall not be counted toward the discharge of the parolee's sentence. This number shall not exceed the number of days after the date of first violation during which the parolee was not incarcerated.

11.7(11) Parole revocation—hearing summary. The administrative parole judge or the board's designated officer shall forward a summary of the parole revocation hearing to the parolee, the parolee's attorney, the parole officer, and the board office as soon as reasonably possible following the parole revocation hearing. The summary of the parole revocation shall consist of a summary of the proceeding and shall contain the judge's findings of fact, conclusions of law and disposition of the matter.

11.7(12) Parole revocation hearing—conduct of the media. The provisions governing the conduct of the media at parole interviews as set out in 205—subrule 8.14(4) shall also apply to parole revocation hearings, except that decisions committed to the discretion of the board or board panel in that rule shall be made by the presiding administrative parole judge.

205—11.8(908) Appeal or review. The order of the administrative parole judge shall become the final decision of the board of parole unless, within ten days of the date of the decision, the parole violator appeals the decision or a panel of the board reviews the decision on its own motion. On appeal or review of the judge's decision, the board panel has all the power which it would have in initially making the revocation hearing decision. The appeal or review shall be conducted pursuant to rules adopted by the board of parole. The record on appeal or review shall be the record made at the parole revocation hearing conducted by the administrative parole judge. Appeals must be received at the parole office or be postmarked by the applicable date or they will not be considered.

205—11.9(908) Interstate compact parole revocation probable cause hearings. The Iowa board of parole may conduct interstate compact parole probable cause hearings under the same procedures as the Iowa parole revocation hearings.

11.9(1) Interstate compact parole revocation probable cause hearings. The Iowa board of parole, or an administrative parole judge, may conduct a probable cause hearing for a parolee from another state who is on parole in Iowa under the terms of the interstate compact on probation and parole according to the same procedures which govern parole revocation hearings for Iowa parolees who are on parole in Iowa.

11.9(2) Interstate compact parole revocation hearings. If an Iowa parolee was on parole outside the state of Iowa through the interstate compact on probation and parole and has been returned to Iowa following a finding of probable cause in the receiving state, a parole revocation hearing shall be conducted for the parolee at the Iowa institution at which the parolee is incarcerated. This hearing

shall be conducted according to the same procedures as those specified for hearings conducted for Iowa parolees who are on parole in the state of Iowa.

205—11.10(908) Parolee convicted of new offenses. A parolee who is found guilty of a new offense or who pleads guilty to a new offense, including a simple misdemeanor, has no right to the adjudication stage of the parole revocation hearing with regard to the new offense.

205—11.11(908) Waivers. When the parole officer makes a recommendation to the board of parole for revocation of parole, the parole officer shall inform the parolee of the parolee's rights and afford the parolee the opportunity to execute a waiver of parole revocation hearing.

The parole officer shall also inform the parolee of the opportunity to waive the parolee's right to personal appearance and consent to the parole revocation hearing's being conducted over the telephone.

11.11(1) Waiver of parole revocation hearing. A waiver of parole revocation hearing shall constitute an admission of the alleged violation(s) and shall include a waiver of any right to a personal appearance before the administrative parole judge to contest the violations.

11.11(2) Parole revocation hearing waiver procedures. If the parolee desires to execute a waiver of parole revocation hearing, the waiver shall be entered on the appropriate form provided by the board which shall be signed by the parolee in the presence of the administrative parole judge or by the parolee in the presence of the parole officer/supervisor if the waiver hearing is conducted electronically. The administrative parole judge shall make a verbatim record of the waiver proceeding and shall address the parolee personally and inform the parolee of and determine that the parolee understands the contents of the waiver form which shall include:

- a. The nature of the parole violation to which the waiver is addressed;
- b. The legal rights of the parolee;
- c. The fact that the execution of the waiver constitutes an admission of the alleged violation(s);
- d. The fact that the parolee may be committed to the custody of the Iowa department of corrections without further proceedings;
- e. The fact that the waiver is complete and final upon execution;
- f. The fact that the waiver may be appealed according to the parole board's parole revocation appeal process in rule 205—11.8(908).

11.11(3) Waiver of the right to personal appearance. In the event the parolee executes a waiver of the right to personal appearance and consent to parole revocation hearing to be conducted over the telephone, the parole revocation hearing shall be scheduled and conducted as a routine parole revocation hearing with the exception that it shall be conducted by telephone. In the event the parolee does not execute a waiver of the right to personal appearance and consent to parole revocation hearing to be conducted over the telephone, the hearing shall be scheduled and may, at the discretion of the administrative parole judge, be conducted electronically by videoconference.

[ARC 2678C, IAB 8/17/16, effective 12/19/16]

205—11.12(908) Conviction of a felony or aggravated misdemeanor while on parole. When a parolee is convicted and sentenced to incarceration in Iowa for a felony or aggravated misdemeanor committed while on parole, or is convicted and sentenced to incarceration under the laws of any other state of the United States or a foreign government or country for an offense committed while on parole and which if committed in Iowa would be a felony or aggravated misdemeanor, the parolee's parole shall be deemed revoked as of the date of the commission of the offense.

11.12(1) The parole officer shall inform the sentencing judge that the convicted defendant is a parole violator. The term for which the defendant shall be imprisoned as a parole violator shall be the same as that provided in cases of revocation of parole for violation of the conditions of parole. The new sentence of imprisonment for conviction of a felony or aggravated misdemeanor shall be served consecutively to the sentence for which the defendant was on parole, unless a concurrent term of imprisonment is ordered by the court.

11.12(2) The parole officer shall forward to the board of parole a violation report together with a file-stamped copy of the judgment entry and sentencing order for the offense committed during the parole. An administrative parole judge shall review the violation report and the judgment entry and sentencing order and, if satisfied that the conditions of Iowa Code section 908.10 or 908.10A and of this rule have been met, shall issue an order revoking the parole. The judge shall also determine the date of commission of the felony or aggravated misdemeanor offense and the date of subsequent incarceration in a state institution. Time loss shall be the time between these two dates, except that the parolee shall receive credit for any time the parolee was incarcerated in a county jail between these two dates.

11.12(3) The parolee shall be notified in writing that the parole has been revoked on the basis of the new conviction, and a copy of the commitment order shall accompany the notification. The parolee's record shall be reviewed pursuant to the provisions of Iowa Code section 906.5, or as soon as practical after a final reversal of the new conviction.

11.12(4) An inmate may appeal the revocation of parole under this rule according to the procedure indicated in rule 205—11.8(908).

11.12(5) Neither the administrative parole judge nor the board shall retry the facts underlying any conviction.

[ARC 2678C, IAB 8/17/16, effective 12/19/16]

These rules are intended to implement Iowa Code chapters 906 and 908.

[Filed 7/26/76, Notice 1/26/76—published 8/9/76, effective 9/13/76]

[Filed 2/7/79, Notices 10/4/78, 11/1/78—published 3/7/79, effective 4/11/79]

[Filed 11/17/81, Notice 8/5/81—published 12/9/81, effective 1/14/82]

[Filed 9/23/82, Notice 7/7/82—published 10/13/82, effective 11/19/82]

[Filed 4/5/83, Notice 2/16/83—published 4/27/83, effective 6/1/83]

[Filed 2/6/89, Notice 12/28/88—published 2/22/89, effective 3/29/89]

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]

[Filed 6/4/04, Notice 4/28/04—published 6/23/04, effective 7/28/04]

[Filed 10/6/06, Notice 8/16/06—published 10/25/06, effective 11/29/06][◇]

[Filed ARC 2678C (Notice ARC 2590C, IAB 6/22/16), IAB 8/17/16, effective 12/19/16]

[◇] Two or more ARCs

CHAPTER 57
RESIDENTIAL CARE FACILITIES
[Prior to 7/15/87, Health Department[470] Ch 57]

481—57.1(135C) Definitions. For the purposes of these rules, the following terms shall have the meanings indicated in this rule. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in these rules.

“Accommodation” means the provision of lodging, including sleeping, dining, and living areas.

“Activities of daily living” means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting and ambulation.

“Administrator” means a person approved by the department who administers, manages, supervises, and is in general administrative charge of a residential care facility, whether or not such person has an ownership interest in the facility, and whether or not the functions and duties are shared with one or more other persons.

“Ambulatory” means the condition of a person who immediately and without the aid of another person is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“Basement” means that part of a building where the finish floor is more than 30 inches below the finish grade of the building.

“Board” means the regular provision of meals.

“Change of ownership” means the purchase, transfer, assignment, or lease of a licensed residential care facility.

“Communicable disease” means a disease caused by the presence within a person’s body of a virus or microbial agent which may be transmitted either directly or indirectly to other persons.

“Department” means the department of inspections and appeals.

“Distinct part” means a clearly identifiable area or section containing contiguous rooms within a health care facility.

“Interdisciplinary team” means the group of persons who develop a single, integrated, individual program plan to meet a resident’s needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident’s legal guardian if applicable, the resident’s advocate if desired by the resident, a referral agency representative, other appropriate staff members, other providers of services, and other persons relevant to the resident’s needs.

“Legal representative” means the resident’s guardian or conservator if one has been appointed or the resident’s power of attorney.

“Medication” means any drug, including over-the-counter substances, ordered and administered under the direction of the primary care provider.

“Nonambulatory” means the condition of a person who immediately and without the aid of another person is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“Personal care” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and eating, and supervision over medications which can be self-administered.

“Primary care provider” means any of the following who provide primary care and meet licensure standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“Program of care” means all services being provided for a resident in a health care facility.

“Rate” means the daily fee that is charged for all residents equally and that includes the cost of all minimum services required in these rules and regulations.

“Records” includes electronic records.

“Responsible party” means the person who signs or cosigns the residency agreement required in rule 481—57.15(135C) or the resident’s legal representative. In the event that a resident has neither a legal representative nor a person who signed or cosigned the resident’s residency agreement, the term *“responsible party”* shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

“Restraints” means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.2(135C,17A) Waiver or variance. A waiver or variance from these rules may be granted by the director of the department in accordance with 481—Chapter 6. A request for waiver or variance will be granted or denied by the director within 120 calendar days of receipt.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.3(135C) Application for licensure.

57.3(1) Application and licensing—new facility or change of ownership. In order to obtain an initial residential care facility license for a facility not currently licensed as a residential care facility or for a residential care facility when a change of ownership is contemplated, the applicant must:

- a. Make application at least 30 days prior to the proposed opening date of the facility. Application shall be made on forms provided by the department.
- b. Meet all of the rules, regulations, and standards contained in 481—Chapters 50, 57 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.
- c. Submit a letter of intent and a written résumé of care. The résumé of care shall meet the requirements of subrule 57.3(2).
- d. Submit a floor plan of each floor of the residential care facility. The floor plan of each floor shall be drawn on 8½" × 11" paper, show room areas in proportion, room dimensions, window and door locations, designation of the use of each room, and the room numbers for all rooms, including bathrooms.
- e. Submit a photograph of the front and side of the residential care facility.
- f. Submit the statutory fee for a residential care facility license.
- g. Comply with all other local statutes and ordinances in existence at the time of licensure.
- h. Submit a certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations.

57.3(2) Résumé of care. The résumé of care shall describe the following:

- a. Purpose of the facility;
- b. Criteria for admission to the facility;
- c. Ownership of the facility;
- d. Composition and responsibilities of the governing board;
- e. Qualifications and responsibilities of the administrator;
- f. Medical services provided to residents, to include the availability of emergency medical services in the area and the designation of a primary care provider to be responsible for residents in an emergency;
- g. Dental services provided to residents and available in the area;
- h. Nursing services provided to residents, if applicable;
- i. Personal services provided to residents, including supervision of or assistance with activities of daily living;
- j. Activity program;
- k. Dietary services, including qualifications of the person in charge, consultation service (if applicable) and meal service;
- l. Other services available as applicable, including social services, physical therapy, occupational therapy, and recreational therapy;
- m. Housekeeping;
- n. Laundry;

- o.* Physical plant; and
- p.* Staffing provided to meet residents' needs.

57.3(3) *Renewal application.* In order to obtain a renewal of the residential care facility license, the applicant must submit the following:

- a.* The completed application form 30 days prior to the annual license renewal date of the residential care facility license;
- b.* The statutory license fee for a residential care facility;
- c.* An approved current certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations;
- d.* Changes to the résumé of care, if any; and
- e.* Changes to the current residency agreement, if any.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.4(135C) *Issuance of license.* Licenses are issued to the person, entity or governmental unit with responsibility for the operation of the facility and for compliance with all applicable statutes, rules and regulations.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.5(135C) *Licenses for distinct parts.*

57.5(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, contain contiguous rooms, and provide separate categories of care and services.

57.5(2) The following requirements shall be met for separate licensing of a distinct part:

- a.* The distinct part shall serve only residents who require the category of care and services immediately available to them within that part. (III)
- b.* The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought.
- c.* The distinct part must be operationally and financially feasible.
- d.* Personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management. (III)
- e.* Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

This rule is intended to implement Iowa Code sections 135C.6(2) and 135C.14.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.6(135C) *Special classification—memory care.*

57.6(1) *Designation and application.* A residential care facility may choose to care for residents who require memory care in a distinct part of the facility or designate the entire residential care facility as one that provides memory care. Residents in the memory care unit or facility shall meet the level of care requirements for a residential care facility. “Memory care” in a residential care facility means the care of persons with early Alzheimer’s-type dementia or other disorders causing dementia. (I, II, III)

- a.* Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)
- b.* Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)
- c.* If the unit or facility is to be a locked unit or facility, all locking devices shall meet the Life Safety Code and any requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

57.6(2) *Résumé of care.* A résumé of care shall be submitted to the department for approval at least 30 days before a separate memory care unit or facility is opened. For facilities with a memory care unit, this résumé of care is in addition to the résumé of care required by subrule 57.3(2). A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

- a.* Describe the population to be served;
- b.* State the philosophy and objectives;

- c. List criteria for transfer to and from the memory care unit or facility;
- d. Include a copy of the floor plan;
- e. List the titles of policies and procedures developed for the unit or facility;
- f. Propose a staffing pattern;
- g. Set out a plan for specialized staff training;
- h. State visitor, volunteer, and safety policies;
- i. Describe programs for activities, social services and families; and
- j. Describe the interdisciplinary team and the role of each team member.

57.6(3) Policies and procedures. Separate written policies and procedures shall be implemented in the memory care unit or facility and shall address the following:

- a. Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a memory care unit or facility. (II, III)
- b. Safety, including a description of the actions required of staff in the event of a fire, natural disaster, or emergency medical event or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility, when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility, and the manner in which the effectiveness of the security system will be monitored. (II, III)
- c. Staffing requirements, including the minimum number, types and qualifications of staff in the unit or facility in accordance with resident needs. (II, III)
- d. Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)
- e. The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

57.6(4) Assessment prior to transfer or admission. Prior to the transfer or admission of a resident applicant to the memory care unit or facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

57.6(5) Staff training. All staff working in a memory care unit or facility shall have training appropriate to the needs of the residents. (I, II, III)

- a. Upon assignment to the unit or facility, all staff working in the unit or facility shall be oriented to the needs of residents requiring memory care. Staff members shall have at least six hours of special training appropriate to their job descriptions within 30 days of assignment to the unit or facility. (I, II, III)

- b. Training shall include the following topics: (II, III)
 - (1) An explanation of Alzheimer's disease and related disorders, including symptoms, behavior and disease progression;
 - (2) Skills for communicating with persons with dementia;
 - (3) Skills for communicating with family and friends of persons with dementia;
 - (4) An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics;
 - (5) The importance of planned and spontaneous activities;
 - (6) Skills in providing assistance with activities of daily living;
 - (7) Skills in working with challenging residents;
 - (8) Techniques for cueing, simplifying, and redirecting;
 - (9) Staff support and stress reduction;
 - (10) Medication management and nonpharmacological interventions.

- c. Nursing staff, certified medication aides, medication managers, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually.

This training shall be related to the needs of memory care residents. The six-hour initial training required in paragraph 57.6(5) “a” shall count toward the required annual in-service training. (II, III)

57.6(6) *Staffing.* There shall be at least one staff person on a memory care unit at all times. (I, II, III)

57.6(7) *Others living in the memory care unit.* A resident not requiring memory care services may live in the memory care unit if the resident’s spouse requiring memory care services lives in the unit or if no other beds are available in the facility and the resident or the resident’s legal representative consents in writing to the placement. (II, III)

57.6(8) *Revocation, suspension or denial.* The memory care unit license or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

This rule is intended to implement Iowa Code sections 135C.2(3) “b” and 135C.14.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.7(135C) General requirements.

57.7(1) The license shall be displayed in the facility in a conspicuous place which is accessible to the public. (III)

57.7(2) The license shall be valid only in the possession of the licensee to whom it is issued.

57.7(3) The posted license shall accurately reflect the current status of the residential care facility. (III)

57.7(4) The license shall expire one year after the date of issuance or as indicated on the license.

57.7(5) The licensee shall:

a. Assume the responsibility for the overall operation of the residential care facility. (I, II, III)

b. Be responsible for compliance with all applicable laws and with the rules of the department. (I, II, III)

c. Provide an organized continuous 24-hour program of care commensurate with the needs of the residents. (I, II, III)

57.7(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.8(135C) Certified volunteer long-term care ombudsman program. A certified volunteer long-term care ombudsman appointed in accordance with Iowa Code section 231.45 shall operate within the scope of the rules for volunteer ombudsmen promulgated by the office of the long-term care ombudsman and the Iowa department on aging.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.9(135C) Required notifications to the department. The department shall be notified:

57.9(1) Thirty days before any proposed change in the residential care facility’s functional operation or addition or deletion of required services; (III)

57.9(2) Thirty days before the beginning of the renovation, addition, functional alteration, change of space utilization, or conversion in the residential care facility or on the premises; (III)

57.9(3) Thirty days before closure of the residential care facility; (III)

57.9(4) Within two weeks of any change in administrator; (III)

57.9(5) Ninety days before a change in the category of license; (III)

57.9(6) Thirty days before a change of ownership, the licensee shall:

a. Inform the department of the pending change of ownership; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee; (III)

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department’s files concerning the licensee’s residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.10(135C) Administrator. Each residential care facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (III)

57.10(1) Qualifications of an administrator.

a. The administrator shall be at least 21 years of age and shall have a high school diploma or equivalent. (III) In addition, this person shall meet at least one of the following conditions:

(1) Have a two-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of two years' experience in the field; or (III)

(2) Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(3) Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(4) Be a licensed nursing home administrator; or (III)

(5) Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)

(6) Have passed the National Association of Long Term Care Administrator Boards (NAB) RC/AL administrator licensure examination; or

(7) Have two years of direct care experience and at least six months of administrative experience in a residential care facility. (III)

b. An individual employed as an administrator on January 14, 2015, will be deemed to meet the requirements of this subrule.

57.10(2) Duties of an administrator. The administrator shall:

a. Select and direct competent personnel who provide services for the residential care program. (III)

b. Arrange for the heads of nursing, social services, dietary and activities to attend a minimum of ten contact hours of educational programs per year to increase skills and knowledge needed for their positions. The ten hours is in addition to the in-service requirements in paragraph 57.10(2) "c." (III)

c. Provide in-service educational programming for all employees with direct resident contact and maintain records of programs and participants. (III) In-service educational programming offered during each calendar year shall include, at minimum, the following topics: (I, II, III)

(1) Infection control.

(2) Emergency preparedness (fire, tornado, flood, 911, etc.).

(3) Meal time procedures/dietary.

(4) Resident activities.

(5) Mental illness/behavior modification/crisis intervention.

(6) Resident safety/supervision.

(7) Resident rights.

(8) Medication education, to include administration, storage and drug interactions.

(9) Resident service plans/programming/goals.

57.10(3) Administrator serving at more than one residential care facility. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

a. An administrator of more than one facility shall designate in writing an administrative staff person in each facility who shall be responsible for directing programs in the facility.

b. The administrative staff person designated by the administrator shall:

(1) Have at least one year of experience in a supervisory or direct care position in a residential care facility or in a facility for the intellectually disabled, mentally ill or developmentally disabled; (II, III)

(2) Be knowledgeable of the operation of the facility; (II, III)

(3) Have access to records concerned with the operation of the facility; (II, III)

(4) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)

(5) Be at least 21 years of age; (III)

(6) Be empowered to act on behalf of the licensee concerning the health, safety and welfare of the residents; and (II, III)

(7) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

c. If an administrator serves more than one facility, the administrator must designate in writing regular and specific times during which the administrator will be available to consult with staff and residents to provide direction and supervision of resident care and services. (II, III)

57.10(4) Provisional administrator. A provisional administrator may be appointed on a temporary basis by the residential care facility licensee to assume the administrative responsibilities for a residential care facility for a period not to exceed one year when the facility has lost its administrator and has not been able to replace the administrator, provided that the department has been notified and approved the provisional administrator prior to the date of the provisional administrator's appointment. (III) The provisional administrator must meet the requirements of paragraph 57.10(3) "b."

57.10(5) Temporary absence of administrator.

a. In the temporary absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

(1) Be knowledgeable of the operation of the facility; (III)

(2) Have access to records concerned with the operation of the facility; (III)

(3) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

(4) Be at least 21 years of age; (III)

(5) Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

(6) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

b. If the administrator is absent for more than six weeks, a provisional administrator must be appointed pursuant to subrule 57.10(4).

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.11(135C) Personnel.

57.11(1) Alcohol and drug use prohibited. No person under the influence of intoxicating drugs or alcoholic beverages shall be permitted to provide services in a residential care facility. (I, II)

57.11(2) Job description. There shall be a written job description developed for each category of worker. The job description shall include the job title, responsibilities and qualifications. (III)

57.11(3) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2014 Iowa Acts, chapter 1040, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

57.11(4) Personnel record. A personnel record shall be kept for each employee and shall include but not be limited to the following information about the employee: name and address, social security number, date of birth, date of employment, position, experience and education, references, results of criminal record checks, child abuse checks and dependent adult abuse checks, and date of discharge or resignation. (III)

57.11(5) Supervision and staffing.

a. The facility shall provide sufficient staff to meet the needs of the residents served. (I, II, III)

b. Personnel in a residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be awake at all times while on duty. (I, II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (I, II, III)

d. Staff shall be aware of and provide supervision levels based on the present needs of the residents in the staff's care. The facility shall document the supervision of residents who require more than general supervision, as defined by facility policy. (I, II, III)

e. The facility shall maintain an accurate record of actual hours worked by employees. (III)

57.11(6) *Physical examination and screening.* Employees shall have a physical examination no longer than 12 months prior to beginning employment and every four years thereafter. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.11(7) *Orders for medications and treatments.* Orders for medications and treatments shall be correctly implemented by qualified personnel. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 2273C, IAB 12/9/15, effective 1/13/16]

481—57.12(135C) General policies. The licensee shall establish and implement written policies and procedures as set forth in this rule. The policies and procedures shall be available for review by the department, other agencies designated by Iowa Code section 135C.16(3), staff, residents, residents' families or legal representatives, and the public and shall be reviewed by the licensee annually. (II)

57.12(1) *Facility operation.* The licensee shall establish written policies for the operation of the facility, including, but not limited to the following: (III)

- a. Personnel; (III)
- b. Admission; (III)
- c. Evaluation services; (II, III)
- d. Programming and individual program plans; (II, III)
- e. Registered sex offender management; (II, III)
- f. Crisis intervention; (II, III)
- g. Discharge or transfer; (III)
- h. Medication management, including self-administration of medications and chemical restraints; (III)
- i. Resident property; (II, III)
- j. Resident finances; (II, III)
- k. Records; (III)
- l. Health and safety; (II, III)
- m. Nutrition; (III)
- n. Physical facilities and maintenance; (III)
- o. Resident rights; (II, III)
- p. Investigation and reporting of alleged dependent adult abuse; (II, III)
- q. Investigation and reporting of accidents or incidents; (II, III)
- r. Transportation of residents; (II, III)
- s. Resident supervision; (II, III)
- t. Smoking; (III)
- u. Visitors; (III)
- v. Disaster/emergency planning; (III) and
- w. Infection control. (III)

57.12(2) *Personnel policies.* Written personnel policies shall include the hours of work and attendance at educational programs. (III)

57.12(3) *Infection control.* The facility shall have a written and implemented infection control program, which shall include policies and procedures based on guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. The infection control program shall address the following:

- a. Techniques for hand washing; (I, II, III)
- b. Techniques for handling of blood, body fluids, and body wastes; (I, II, III)
- c. Dressings, soaks or packs; (I, II, III)

- d. Infection identification; (I, II, III)
- e. Resident care procedures to be used when there is an infection present; (I, II, III)
- f. Sanitation techniques for resident care equipment; (I, II, III)
- g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III) and
- h. Techniques for use and disposal of needles, syringes, and other sharp instruments. (I, II, III)

57.12(4) Resident care techniques. The facility shall have written and implemented procedures to be followed if a resident needs any of the following treatment or devices:

- a. Intravenous or central line catheter; (I, II, III)
- b. Urinary catheter; (I, II, III)
- c. Respiratory suction, oxygen or humidification; (I, II, III)
- d. Decubitus care; (I, II, III)
- e. Tracheostomy; (I, II, III)
- f. Nasogastric or gastrostomy tubes; (I, II, III)
- g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

57.12(5) Emergency care. The facility shall establish written policies for the provision of emergency medical care to residents and employees in case of sudden illness or accident. The policies shall include a list of those individuals to be contacted in case of an emergency. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.13(135C) Admission, transfer and discharge.

57.13(1) General admission policies.

- a. Residents shall be admitted to a residential care facility only on a written order signed by a primary care provider, specifying the level of care, and certifying that the individual being admitted requires no more than personal care and supervision and does not require routine nursing care. (II, III)
- b. No residential care facility shall admit or retain a resident who is in need of greater services than the facility can provide. (I, II, III)
- c. No residential care facility shall admit more residents than the number of beds for which the facility is licensed. (II, III)
- d. A residential care facility is not required to admit an individual through court order, referral or other means without the express prior approval of the administrator. (III)
- e. The admission of a resident shall not grant the residential care facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and the safe and orderly management of the residential care facility as required by these rules. (III)
- f. Individuals under the age of 18 shall not be admitted to a residential care facility without prior written approval by the department. A distinct part of a residential care facility, segregated from the adult section, may be established based on a résumé of care that is submitted by the licensee or applicant and is commensurate with the needs of the residents of the residential care facility and that has received the department's review and approval. (III)
- g. No health care facility and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property unless such resident is related within the third degree of consanguinity to the person acting as guardian. (III)

57.13(2) Discharge or transfer.

- a. Notification shall be made to the legal representative, primary care provider, and sponsoring agency, if any, prior to the transfer or discharge of any resident. (III)
- b. The licensee shall not refuse to discharge or transfer a resident when the primary care provider, family, resident, or legal representative requests such transfer or discharge. (II, III)
- c. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

d. When a resident is transferred or discharged, the appropriate record will accompany the resident to ensure continuity of care. “Appropriate record” includes the resident’s face sheet, service plan, most recent orders of the primary care provider and any notifications of upcoming scheduled appointments. (II, III)

e. When a resident is transferred or discharged, the resident’s unused prescriptions shall be sent with the resident or with a legal representative only upon the written order of a primary care provider. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.14(135C) Involuntary discharge or transfer.

57.14(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a. Medical reasons;
- b. The resident’s welfare or that of other residents;
- c. Repeated refusal by the resident to participate in the resident’s service plan;
- d. Due to action pursuant to Iowa Code chapter 229; or
- e. Nonpayment for the resident’s stay, as described in the residency agreement for the resident’s stay.

57.14(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident’s needs and shall be determined and documented in the resident’s record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

57.14(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident’s social, emotional, or physical well-being. A resident may be transferred or discharged because the resident’s behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident’s behavior is incompatible with other residents’ needs and rights). Written documentation that the resident’s continued presence in the facility would adversely affect the resident’s own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

57.14(4) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

- a. The notice shall contain all of the following information:
 - (1) The stated reason for the proposed transfer or discharge. (II)
 - (2) The effective date of the proposed transfer or discharge. (II)
 - (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as “department”) within seven days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. In emergency circumstances, extension of the 14-day requirement may be permitted upon request to the department’s designee. If you lose the hearing, you will not be transferred before the expiration of (1) 30 days following receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

- b. The notice shall be personally delivered to the resident and a copy placed in the resident’s record. A copy shall also be transmitted to the department; the resident’s responsible party; the resident’s primary care provider; the person or agency responsible for the resident’s placement, maintenance, and care in

the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 57.14(4) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs: (II)

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6).

57.14(5) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads:

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals within 7 days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6).

57.14(6) *Hearing.*

a. Request for hearing.

- (1) The resident must request a hearing within 7 days of receiving the written notice.
- (2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after receipt of the request by the department unless the resident requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or the resident's legal representative requests in writing that the hearing be closed. In a determination

as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. A representative of the office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the licensee, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

57.14(7) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

57.14(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

57.14(9) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 57.14(9) "b" does not apply if the discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6).

e. The receiving health care facility of a resident involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

57.14(10) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

57.14(11) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Incompatibility with or disturbing to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(4) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(5) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 57.14(11)“a”(4). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 57.14(11)“a”(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 57.14(11)“a,” the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II, III)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II, III)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.15(135C) Residency agreement.

57.15(1) Each residency agreement shall:

a. State the base rate or scale per day or per month, the services included, and the method of payment. (III)

b. Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the agreement shall:

(1) Stipulate that no further additional fees shall be charged for items not contained in the complete schedule of services; (III)

(2) State the method of payment for additional charges; (III)

(3) Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

(4) State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services provided by a barber, beautician, and such. (III)

c. Contain an itemized list of services to be provided to the resident based on an assessment at the time of the resident's admission and in consultation with the administrator and including the specific fee the resident will be charged for each service and the method of payment. (III)

d. Include the total fee to be charged initially to the resident. (III)

e. State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (II, III) Furthermore, the agreement shall provide that the facility shall give:

(1) Written notification to the resident, or the responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of such changes; (II, III)

(2) Notification to the resident, or the responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also

be given within a reasonable time, not to exceed one week, listing specifically the adjustments made. (II, III)

f. State the terms of agreement in regard to a refund of all advance payments in the event of the transfer, death, or voluntary or involuntary discharge of the resident. (II, III)

g. State the terms of agreement concerning the holding of and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party. (II, III)

(1) The facility shall ask the resident or responsible party whether the resident's bed should be held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II, III)

(2) The facility shall inform the resident or responsible party that, when requested, the bed may be held beyond the number of days designated by the funding source, as long as payments are made in accordance with the agreement. (II, III)

h. State the conditions under which the involuntary discharge or transfer of a resident would be effected. (II, III)

i. Set forth any other matters deemed appropriate by the parties to the agreement. No agreement or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (II, III)

57.15(2) Each party to the residency agreement shall receive a copy of the signed agreement. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.16(135C) Medical examinations.

57.16(1) Each resident in a residential care facility shall have a designated primary care provider who may be contacted when needed. (II, III)

57.16(2) Each resident admitted to a residential care facility shall have a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the primary care provider, shall be a part of the resident's record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of medical concerns, diet, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.16(3) The person in charge shall immediately notify the primary care provider of any accident, injury or adverse change in the resident's condition that has the potential for requiring physician intervention. (I, II, III)

57.16(4) Each resident shall be visited by or shall visit the resident's primary care provider at least once each year. The one-year period shall be measured from the date of admission and does not include the resident's preadmission physical. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.17(135C) Records.

57.17(1) *Resident record.* The licensee shall keep a permanent record on every resident admitted to the residential care facility, and all entries in the permanent record shall be current, dated, and signed. (III) The record shall include:

- a.* Name and previous address of resident; (III)
- b.* Birth date, sex, and marital status of resident; (III)
- c.* Church affiliation, if designated; (III)

- d. Primary care provider's name, telephone number, and address; (III)
- e. Dentist's name, telephone number, and address; (III)
- f. Name, address, and telephone number of next of kin or legal representative; (III)
- g. Name, address, and telephone number of person to be notified in case of emergency; (III)
- h. Pharmacy name, telephone number, and address; (III)
- i. Mortuary name, telephone number, and address, if designated; (III)
- j. Physical examination and medical history; (III)
- k. Primary care provider's orders for the resident's level of care, medication, treatments, and diet. The orders shall be in writing and signed by the primary care provider quarterly; (III)
- l. A notation of visits to primary care provider and other professional services; (III)
- m. Documentation regarding services provided by other providers, including but not limited to home health agencies, hospice, day treatment and those providing medical, mental health and Medicaid waiver services; (III)
- n. Documentation of any adverse change in the resident's condition; (II, III)
- o. A notation describing the resident's condition on admission, transfer and discharge; (III)
- p. A copy of instructions given to the resident, legal representative or facility in the event of discharge or transfer; (III)
- q. In the event of a resident's death, notations of the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time the resident's family and primary care provider were notified of the resident's death; and (III)
- r. A notation of disposition of personal property and medications upon the resident's transfer, discharge or death. (III)

57.17(2) Confidentiality of resident records. Each resident shall be ensured confidential treatment of all information contained in the resident's records. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive the information. (II)

- a. The facility shall limit access to any medical records to staff and professionals providing services to the resident. (II)
- b. The facility shall limit access to the resident's personal records, e.g., financial records and social services records, to staff and professionals providing the service to the resident. Only those personnel concerned with the financial affairs of the resident may have access to the financial records. (II)
- c. The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the primary care provider determines that the disclosure of the record or section thereof is contraindicated, in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)
- d. This subrule is not meant to preclude access to resident records by representatives of state and federal regulatory agencies.

57.17(3) Incident record.

- a. Each residential care facility shall maintain an incident record report and shall have available incident report forms. (II, III)
- b. Report of incidents shall be in detail on an incident report form. (III)
- c. The person in charge at the time of the incident shall oversee the preparation of and sign the incident report. The administrator or designee shall review, sign and date the incident report within 72 hours of the accident, incident or unusual occurrence. (II, III)
- d. An incident report shall be completed for every accident or incident where there is apparent injury or where an injury of unknown origin may have occurred. (II)
- e. An incident report shall be completed for every accident, incident or unusual occurrence within the facility or on the premises that affects a resident, visitor, or employee. (II, III)
- f. A copy of the incident report shall be kept on file in the facility. (II, III)

57.17(4) Retention of records.

a. Records shall be retained in the facility for five years following the termination of services to a resident. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. When the facility ceases to operate, a copy of the resident's record shall be released to the facility to which the resident is transferred. (III)

d. When the facility ceases to operate, records shall be maintained for five years in a clean, dry secured storage area. (III)

57.17(5) *Electronic records.* In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the residents of the facility. (II, III)

a. If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion. (II, III)

b. The facility shall provide a terminal where the authorized representative may access records. (II, III)

c. If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.18(135C) Resident care and personal services.

57.18(1) A complete change of bed linen shall be provided at least once a week and more often if necessary. (III)

57.18(2) Residents shall receive sufficient supervision to promote personal cleanliness. (II, III)

57.18(3) Residents shall have clean clothing as needed. Clothing shall be appropriate to residents' activities and to the weather. (III)

57.18(4) Residents shall be encouraged to bathe at least twice a week. (II, III)

57.18(5) All nonambulatory residents shall be housed on the grade level floor unless the facility has a suitably sized elevator. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.19(135C) Drugs.

57.19(1) *Drug storage.*

a. Residents who have been certified in writing by their primary care provider as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided, with staff and the resident having access. Monitoring of the storage, administration and documentation by the resident shall be carried out by a person who meets the requirements of subrule 57.19(3) and is responsible for administering medications. (II, III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) Locked storage for drugs, solutions, and prescriptions shall be provided. (III)

(2) A bathroom shall not be used for drug storage. (III)

(3) The drug storage shall be kept locked when not in use. (III)

(4) The drug storage key shall be secured and available only to those employees charged with the responsibility of administering medications. (II, III)

(5) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked drug storage. (II, III)

(6) Medications requiring refrigeration shall be kept locked in a refrigerator and separated from food and other items. (II, III)

(7) Drugs for external use shall be stored separately from drugs for internal use. (II, III)

(8) All potent, poisonous, or caustic materials shall be stored separately from drugs, shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom, and shall be made accessible only to authorized persons. (I, II)

(9) Inspection of drug storage shall be made by the administrator or designee and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certification of the absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current primary care provider's order, and drugs improperly stored. (III)

(10) Bulk supplies of prescription drugs for multiresident use shall not be kept in a residential care facility. (III)

57.19(2) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident's full name, primary care provider's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or primary care provider issuing the drug. Where unit dose is used, prescribed medications shall, at a minimum, indicate the resident's full name, primary care provider's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. (III)

b. Sample medications provided by the resident's primary care provider shall clearly identify to whom the medications belong. (III)

c. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or primary care provider for relabeling or disposal. (III)

d. The medication for each resident shall be kept or stored in the original containers unless the resident is participating in an individualized medication program. (II, III)

e. Unused prescription drugs shall be destroyed by the person in charge, in the presence of a witness, and with a notation made on the resident's record or shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the resident's primary care provider. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (I, II)

h. Instructions shall be requested from the Iowa board of pharmacy concerning disposal of unused Schedule II drugs prescribed for a resident who has died or for whom the Schedule II drug was discontinued. (III)

i. Discontinued medications shall be destroyed within a specified time by a responsible person, in the presence of a witness, and with a notation made to that effect or shall be returned to the pharmacist for destruction. Drugs listed under the Schedule II drugs shall be destroyed in accordance with the requirements established by the Iowa board of pharmacy. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic-stop order may vary for different types of drugs. The resident's primary care provider, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to possess any medications unless the primary care provider has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the primary care provider. (II)

m. The facility shall establish a policy to govern the distribution of prescribed medications to residents who are on leave from the facility. (II, III)

(1) Medications may be issued to residents who will be on leave from a facility for less than 24 hours. Only those medications needed for the time period the resident will be on leave from the facility

may be issued. Non-child-resistant containers may be used. Instructions shall be provided and include the date, the resident's name, the name of the facility, and the name of the medication, its strength, dose and time of administration. (II, III)

(2) Medication for residents on leave from a facility for longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy. (II, III)

(3) Medication for residents on leave from a facility may be issued only by facility personnel responsible for administering medication. (II, III)

57.19(3) *Drug administration—authorized personnel.*

a. A properly trained person shall be charged with the responsibility of administering medications as ordered by a primary care provider. (II, III)

b. The person shall have knowledge of the purpose of the drugs and their dangers and contraindications. (II, III)

c. The person shall be a licensed nurse or primary care provider or shall have successfully completed a department-approved medication aide course and passed a department-approved medication aide challenge examination administered by an area community college. (II, III)

d. Prior to taking a department-approved medication aide course, the person shall have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. The person shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination; (III)

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination; (III)

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating that the person is competent in medication administration. (III)

f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination. The requirements of paragraph 57.19(3) "d" do not apply to this person. (III)

g. In a freestanding residential care facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.

57.19(4) *Drug administration.*

a. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. In facilities where the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by observing the actual act of swallowing the oral medication and by charting the medication. Medications shall be prepared on the same shift of the same day that they are administered unless the unit dose system is used. (II)

b. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, primary care provider or pharmacist. For purposes of this subrule, "injectable medications" does not include an epinephrine autoinjector, e.g., an EpiPen. (II, III)

c. A resident certified by the resident's primary care provider as capable of injecting the resident's own insulin may do so. Insulin may be administered pursuant to paragraph 57.19(4) "b" or as otherwise authorized by the resident's primary care provider. (II, III) Authorization shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

(4) Include the name of the person authorized to administer the insulin,

(5) Include documentation by the primary care provider that the authorized person is qualified to administer insulin to that resident. (II, III)

d. A resident may participate in the administration of the resident's own medication if the primary care provider has certified in writing in the resident's medical record that the resident is mentally and physically capable of participating and has explained in writing in the resident's medical record what the resident's participation may include.

e. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident, with an accurate count and authorized signatures at every shift. (II)

f. The facility may use a unit dose system.

g. Medication aides and medication managers may administer PRN medications without contacting a licensed nurse or primary care provider if all of the following apply: (I, II, III)

(1) A written order from the resident's primary care provider specifies the purpose of the PRN medication and the frequency, dosage and strength of the PRN medication.

(2) The resident's primary care provider provides in writing specific criteria for administering PRN medications.

(3) The pharmacist assesses the resident's use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1) "b"(9).

h. The pharmacist shall assess the use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1) "b"(9). (II, III)

i. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 2643C, IAB 8/3/16, effective 9/7/16; see Delay note at end of chapter]

481—57.20(135C) Dental services.

57.20(1) The residential care facility personnel shall assist residents in obtaining annual and emergency dental services and shall arrange transportation for such services. (III)

57.20(2) Dental services shall be performed only on the request of the resident, responsible party, legal representative, or primary care provider. The resident's primary care provider shall be advised of the resident's dental problems. (III)

57.20(3) All dental reports or progress notes shall be included in the resident record as available. The facility shall make reasonable efforts to obtain the records following the provision of services. (III)

57.20(4) Personal care staff shall assist the resident in carrying out the dentist's recommendations. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.21(135C) Dietary.

57.21(1) Dietary staffing.

a. A minimum of one person directly responsible for food preparation shall successfully complete a course meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another course may be substituted if the course's curriculum includes substantially similar competencies to a course that meets the requirements of the Food Code and the provider of the course files with the department a statement indicating that the course provides substantially similar instruction as it relates to sanitation and safe food handling. (III)

b. If the person is in the process of completing the food protection program in paragraph 57.21(1) "a," the requirement relating to the completion of a state-approved food protection program shall be considered to have been met.

c. In addition to the requirement of paragraph 57.21(1) "a," personnel who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (III)

57.21(2) Nutrition and menu planning.

a. Menus shall be planned and followed to meet the nutritional needs of residents in accordance with the primary care provider's orders. Diet orders should be reviewed as necessary, but at least quarterly, by the primary care provider. (II, III)

b. Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines. (II, III)

c. At least three meals or their equivalent shall be served daily, at regular hours. (II, III)

(1) There shall be no more than a 14-hour span between offering a substantial evening meal and breakfast. (II, III)

(2) Unless contraindicated, evening snacks shall be offered routinely to all residents. Special nourishments shall be available when ordered by the primary care provider. (II, III)

d. Menus shall include a variety of foods prepared in various ways. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place for easy use by persons purchasing, preparing, and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary or requested, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. The facility shall provide an alternative choice at scheduled meal times. (III)

57.21(3) *Dietary storage, food preparation, and service.*

a. All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2. (I, II, III)

b. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the bureau of nutrition and health promotion of the department of public health. (II, III)

c. Dishes shall be free of cracks, chips, and stains. (III)

d. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

57.21(4) *Sanitation in food preparation area.*

a. In facilities licensed for more than 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

b. There shall be written procedures established for cleaning all work and serving areas in facilities with more than 15 beds. (III)

c. A schedule for duties to be performed daily shall be posted in each food area. (III)

d. All cooking equipment in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (II, III)

e. The food service area shall be located so it will not be used as a passageway by residents, guests, or non-food service staff. (III)

f. There shall be no washing, ironing, sorting or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless the linen is in sealed, leakproof containers. (III)

g. In facilities with more than 15 beds, a mechanical dishwasher is required. (III)

h. A three-compartment pot and pan sink with 110°F (43°C) to 115°F (46°C) water for washing, a compartment for rinsing with water at 170°F (76°C) to 180°F (82°C) for sanitizing with space for air drying, or a two-compartment sink with access to a mechanical dishwasher for sanitizing all utensils shall be provided. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.22(135C) Orientation and service plan.

57.22(1) *Orientation.* Within 24 hours of admission, each resident shall receive orientation to the facility. The orientation program shall be documented in the resident's file and shall include, but shall not be limited to, a review of the resident's rights, the daily schedule, house rules and the facility's evacuation plan. (II, III)

57.22(2) *Initial service plan.* Within 48 hours of admission, the administrator or the administrator's designee shall develop an initial service plan to address any immediate health and safety needs. The plan shall be based on information gathered from the resident, family, referring party, primary care

provider, and other significant persons. The plan shall be followed until the service plan required in subrule 57.22(3) is complete. (I, II, III)

57.22(3) Service plan. Within 30 days of admission, the administrator or the administrator's designee, in conjunction with the resident, the resident's responsible party, the interdisciplinary team, and any organization that works with or serves the resident, shall develop a written, individualized, and integrated service plan for the resident. The service plan shall be developed and implemented to address the resident's priorities and assessed needs, such as activities of daily living, rehabilitation, activity, and social, behavioral, emotional, physical and mental health. (I, II, III)

a. The service plan shall include measurable goals and objectives and the specific service(s) to be provided to achieve the goals. Each goal shall include the date of initiation and anticipated duration of service(s). Any restriction of rights shall be included in the service plan. (I, II, III)

b. The service plan shall include the documentation procedure for each goal and objective. (II, III)

c. The service plan should be modified to add or delete goals and objectives as the resident's needs change. Communications related to service plan changes or changes in the resident's condition shall occur within five working days of the change and shall be conveyed to all individuals inside and outside the residential care facility who work with the resident, as well as to the resident's responsible party. (I, II, III)

d. The service plan shall be reviewed at least quarterly by relevant staff, the resident and appropriate others, such as the resident's family, case manager and responsible party. The review shall include a written report which addresses a summary of the resident's progress toward goals and objectives and the need for continued services. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.23(135C) Resident activities program.

57.23(1) Activities program. Each residential care facility shall provide an organized resident activities program for the group and for the individual resident which shall include suitable activities. The facility shall offer at least two organized evening group activities per week and two organized weekend group activities per month. (III)

a. The activities program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's primary care provider. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The activities program shall include measureable goals for each resident. (III)

c. The activities program shall include both group and individual activities. (III)

d. Residents shall be encouraged, but not required, to participate in activities. (III)

57.23(2) Coordination of activities program.

a. Each residential care facility with 15 or fewer beds shall designate a person to oversee the activities program, develop goals and monitor progress. (III)

b. Each residential care facility with more than 15 beds shall employ a person to direct the activities program. (III)

c. Staffing for the activities program shall be provided on the minimum basis of 45 minutes per resident per week. (II, III)

d. The activities coordinator shall have completed the activities coordinator orientation course approved by the department within six months of employment or have comparable training and experience as approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activities coordinator is absent during scheduled working hours. (III)

57.23(3) Duties of activities coordinator. The activities coordinator shall:

a. Have access to all residents' records. (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services. (III)

c. Keep all necessary records including:

(1) Attendance records; (III)

- (2) Individual resident progress notes, recorded at least every three months; (III)
 - (3) Monthly calendars, prepared in advance, updated as necessary and maintained for one year.
- (III)
- d.* Coordinate the activities program with all other services in the facility. (III)
- 57.23(4) *Supplies, equipment, and storage.***
- a.* Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)
 - b.* Storage shall be provided for recreational equipment and supplies. (III)
- [ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.24(135C) Residents' rights.

57.24(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, the provisions of this rule and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, residents' families or legal representatives and the public and shall be reviewed annually. (II, III)

57.24(2) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible parties and for ensuring a response and disposition by the facility. (II, III) The written procedures shall:

- a.* Ensure the provision of assistance to residents as necessary to complete and submit complaints and recommendations; (II, III)
- b.* Ensure protection of the resident from any form of reprisal or intimidation; (II, III)
- c.* Include designation of an employee responsible for handling grievances and recommendations; (II, III)
- d.* Include a method of investigating and assessing the validity of a grievance or recommendation; (II, III) and
- e.* Include methods of recording grievances and actions taken. (II, III)

57.24(3) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II, III)

57.24(4) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon the resident's admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II, III)

- a.* The facility shall communicate to residents prior to or within five days after admission what residents may expect from the facility and its staff, and what is expected from residents. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following the resident's admission. (II, III)

- b.* Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II, III)

- c.* A statement shall be signed by the resident, or the resident's responsible party, if applicable, indicating an understanding of these rights and responsibilities and shall be maintained in the resident's record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party. (II, III)

- d.* In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II, III)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf or blind residents of changes. (II, III)

57.24(5) Choice of primary care provider. Each resident shall be permitted free choice of a primary care provider, and pharmacy, if accessible. The facility may require the selected pharmacy to utilize a drug distribution system compatible with the system currently used by the facility. (II)

57.24(6) Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and treatment, which may include, but shall not be limited to, medical care, nutritional needs, activities, and social work services. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a resident with impaired decision-making skills, the responsible party shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment and to be informed of the resident's medical condition. (II, III)

57.24(7) Each resident shall be encouraged and assisted throughout the resident's period of stay to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

57.24(8) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of changes in policies and services that are more restrictive, and their views shall be solicited prior to action. (II)

57.24(9) The facility shall post in a prominent area the text of Iowa Code section 135C.46 (Retaliation Prohibited) and the name, telephone number, and address of the long-term care ombudsman, the department, and the local law enforcement agency to provide residents a further course of redress. (II)

57.24(10) All rights and responsibilities of the resident devolve to the resident's responsible party or any legal surrogate designated in accordance with state law, to the extent permitted by state law. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.25(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (I, II)

57.25(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (I, II)

57.25(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

57.25(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

57.25(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

57.25(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.26(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

57.26(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

57.26(2) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

- a. The resident refuses to see the visitor(s). (II)
- b. The resident's primary care provider documents specific reasons why such a visit would be harmful to the resident's health. (II)
- c. The visitor's behavior is unreasonably disruptive to the functioning of the facility. This judgment must be made by the administrator, and the reasons shall be documented and kept on file. (II)

57.26(3) Decisions to restrict a visitor are reviewed and reevaluated:

- a. Each time the medical orders are reviewed by the primary care provider;
- b. At least quarterly by the facility's staff; or
- c. At the resident's request. (II)

57.26(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

57.26(5) Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

57.26(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

57.26(7) Residents, including residents court-ordered to the facility, shall be permitted to leave the facility at reasonable times unless there are justifiable reasons established in writing by court order, the primary care provider, the interdisciplinary team, or facility administrator for refusing permission. (II)

57.26(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.27(135C) Resident activities.

57.27(1) Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the primary care provider or interdisciplinary team as appropriate in the resident's record. (II)

57.27(2) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.28(135C) Resident property.

57.28(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The facility shall offer the resident the opportunity to have personal property itemized and documented on an inventory sheet upon the resident's admission. The inventory sheet shall be kept in a safe location which is convenient to the resident and shall be updated at least annually. At discharge, residents may sign off on a list of the personal property they are taking with them. (II, III)

57.28(2) The facility shall provide for the safekeeping of personal effects, funds and other property of its residents. The facility may require that items of exceptional value or that would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

57.28(3) Funds or properties received by the facility, belonging or due a resident, expendable for the resident's account, shall be trust funds. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.29(135C) Financial affairs—management. Each resident who has not been assigned a guardian or conservator by the court may manage the resident's own personal financial affairs. To the

extent the facility assists in management, under written authorization by the resident, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

57.29(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

57.29(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

57.29(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24. Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a resident with impaired decision-making skills, the resident's legal representative shall designate a method of disbursing the resident's funds. (II)

57.29(4) If the facility makes financial transactions on a resident's behalf, the facility must document that it has prepared and sent an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

57.29(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's legal representative. (I, II)

57.29(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's legal representative. The department may report findings that resident funds have been used without written consent to the department's investigations division or the local law enforcement agency, as appropriate. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.30(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code section 347B.5. (II)

57.30(1) Residents may not be used to provide a source of labor for the facility against their will. Approval by the primary care provider is required for all work programs. (I, II)

57.30(2) Residents who perform work for the facility must receive compensation unless the work is part of their approved training program. Persons on the resident census who perform work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.31(135C) Family—shared rooms. Family members or spouses shall be permitted to share a room, if available, if requested by both parties, unless the primary care provider of one of the parties documents in the medical record specific reasons why such an agreement would have an adverse effect on the health of the resident. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.32(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. (I, II)

57.32(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (I, II)

57.32(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (I, II)

57.32(3) Drugs such as tranquilizers shall only be used in accordance with orders of the primary care provider. (I, II)

57.32(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.33(135C) Crisis intervention. If a facility utilizes physical restraints, there shall be written policies that define the uses of physical restraints, designate the administrator or designee as the person who may authorize their use, and establish a mechanism for monitoring and controlling their use. (I, II)

57.33(1) Temporary physical restraint of residents shall be used only under the following conditions: (I, II)

- a.* An emergency to prevent injury to the resident or to others; or (I, II)
- b.* For crisis intervention, but shall not be used for punishment, for the convenience of staff or as a substitution for supervision or programming; (I, II) and
- c.* No staff person shall use any restraint that obstructs the airway of the resident. (I, II)

57.33(2) Authorization for the use of physical restraints must be prior to or immediately after application of the restraint. (I, II)

57.33(3) Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint. (I, II)

57.33(4) The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the resident's rights and to ensure safety shall be clearly set forth in the resident's record by the responsible staff persons. (I, II)

57.33(5) The primary care provider, the interdisciplinary team and the resident's responsible party shall be notified of any restraints administered. (I, II, III)

57.33(6) The facility shall provide to the staff a department-approved training program by qualified professionals on physical restraint techniques. (I, II)

a. The facility shall keep a record of training for review by the department and shall include attendance. (II, III)

b. Only staff with documented training in physical restraint and techniques shall be authorized to assist with physical restraint of a resident. (I, II)

c. Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident. (I, II)

57.33(7) Residents shall not be kept behind locked doors. (I, II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.34(135C) Safety. The licensee of a residential care facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II, III)

57.34(1) *Fire safety.*

a. All residential care facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

57.34(2) *Safety duties of administrator.* The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

a. The plan shall be prominently posted in a common area of the building. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (II, III)

57.34(3) *Resident safety.*

a. Smoking shall be prohibited, except as allowed by Iowa Code chapter 142D, the smokefree air Act. (II, III)

b. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

c. Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (I, II, III)

d. Storage areas for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall be locked. Residents permitted to access these materials shall be supervised by staff as identified in the resident's service plan. (I, II, III)

e. Sufficient numbers of noncombustible trash containers with covers shall be available. (III)

f. Residents' personal possessions that may constitute a hazard to residents or others shall be removed and stored. (III)

57.34(4) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.35(135C) Housekeeping.

57.35(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

57.35(2) Each resident room shall be cleaned on a routine schedule. (III)

57.35(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (II, III)

57.35(4) A hallway or corridor shall not be used for storage of equipment. (II, III)

57.35(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

57.35(6) Clothing worn by personnel shall be clean and washable. (III)

57.35(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

57.35(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (II, III)

57.35(9) Polishes used on floors shall provide a nonslip finish. (II, III)

57.35(10) Throw or scatter rugs shall have nonskid backing. (II, III)

57.35(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.36(135C) Maintenance.

57.36(1) Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities with more than 15 beds, the maintenance program shall be established in writing and available for review by the department. (II, III)

57.36(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (II, III)

57.36(3) Window treatments and furniture shall be clean and in good repair. (II, III)

57.36(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (II, III)

57.36(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electric Code. (II, III)

57.36(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (II, III)

57.36(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (II, III)

57.36(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (II, III)

57.36(9) The facility shall be kept free of flies, other insects, and rodents. (II, III)

57.36(10) Janitor's closet.

a. Facilities shall be provided with storage for cleaning equipment and supplies. (III)

b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

c. In facilities licensed for more than 15 beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor's sink for emptying scrub pails. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.37(135C) Laundry.

57.37(1) All soiled linens shall be collected and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

57.37(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

57.37(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

57.37(4) Residents' personal laundry shall be marked with an identification if comingled with other residents' personal laundry. (III)

57.37(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

57.37(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lit area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities with more than 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.38(135C) Garbage and waste disposal.

57.38(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

57.38(2) All containers for refuse shall be watertight and rodent-proof and have tight-fitting covers. (III)

57.38(3) All unlined containers shall be thoroughly cleaned each time the containers are emptied. (III)

57.38(4) All waste shall be properly disposed of in compliance with local ordinances and state codes. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.39(135C) Supplies.

57.39(1) *Linen supplies.*

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Adequate storage shall be provided for linens, pillows, and bedding. (III)

57.39(2) *Supplies, equipment and storage.*

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

c. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)

d. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.40(135C) Buildings, furnishings, and equipment.

57.40(1) *Buildings—general requirements.*

a. All windows shall be supplied with window treatments that are kept clean and in good repair. (III)

b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

57.40(2) *Furnishings and equipment.*

a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant as needed, except on furniture provided by the resident and the property of the resident. (III)

57.40(3) *Dining and living rooms.*

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. Living rooms shall be suitably furnished. (III)

c. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining rooms and furnishings shall be kept clean and sanitary. (III)

57.40(4) *Bedrooms.*

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered. (III)

e. There shall be drawer space for each resident's clothing. In a bedroom in which more than one resident resides, drawer space shall be assigned to each resident. (III)

f. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

g. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless the radiator is covered so as to protect the resident from contact with it or from excessive heat. (III)

h. There shall be no more than four residents per room. (III)

57.40(5) *Bath and toilet facilities.*

a. All sinks shall have paper towel dispensers and an available supply of soap. (III)

b. Toilet paper shall be readily available to residents. (III)

57.40(6) *Heating.* A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (II, III)

57.40(7) *Water supply.*

a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request. (III)

b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license. (III)

c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

d. Hot and cold running water under pressure shall be available in the facility. (II, III)

e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.41(135C) Family and employee accommodations.

57.41(1) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

57.41(2) In all facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.42(135C) Animals. No animals shall be allowed to reside in the facility except with written approval of the department and under controlled conditions. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.43(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal. (I, II, III)

57.43(1) To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs 57.43(2) “a” through “j.” (I, II, III)

57.43(2) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

- a. Health and safety risks for residents;
- b. Compatibility of the proposed business or activity with the facility program;
- c. Noise created by the proposed business or activity;
- d. Odors created by the proposed business or activity;
- e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- f. Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- g. Proposed staffing for the business or activity;
- h. Sharing of services and staff between the proposed business or activity and the facility;
- i. Facility layout and design; and
- j. Parking area utilized by the business or activity.

57.43(3) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

57.43(4) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.44(135C) Respite care services. “Respite care services” means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. “Respite care services” does not include crisis stabilization services provided pursuant to 2014 Iowa Acts, chapter 1044 (to be codified at Iowa Code section 225C.19A). “Respite care individual” means a person receiving respite care services. A residential care facility which chooses to provide respite care services must meet the following requirements related to respite services and must be licensed as a residential care facility. (II, III)

57.44(1) Length of stay. Respite care may be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual’s stay at the facility. (II, III)

57.44(2) *No separate license.* A residential care facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

57.44(3) *Involuntary termination of respite services.* The facility may terminate the respite services for a respite care individual. Rule 481—57.14(135C) shall not apply. The facility shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite services, including notification of the respite care individual's family or legal representative. (II, III)

57.44(4) *Contract.* Pursuant to rule 481—57.15(135C), the facility shall have a contract with each resident in the facility. When an individual is there for respite care services, the contract shall specify the time period during which the individual will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state that respite care services may be involuntarily terminated. The contract shall meet other requirements under rule 481—57.15(135C), except the requirements under subrule 57.15(7). (II, III)

57.44(5) *Admission as a resident.*

a. An individual being cared for under a respite care contract shall not be considered an admission to the facility.

b. A respite care individual shall be included in the facility's census.

c. The facility shall not enter into multiple 30-day contracts with an individual being cared for under a respite care contract in order to lengthen the individual's stay at the facility. (II, III)

d. If an individual being cared for under a respite care contract remains in the facility beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a resident in the facility. The facility shall follow all requirements for the individual's admission to the facility. (II, III)

57.44(6) *Level of care.* Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide. (I, II, III)

57.44(7) *Reporting requirements.* The reporting requirements of rule 481—50.7(135C) shall apply to residents being cared for under a respite care contract. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code section 135C.14.

[Filed 8/6/76, Notice 4/19/76—published 8/23/76, effective 9/27/76]

[Filed without Notice 10/4/76—published 10/20/76, effective 11/24/76]

[Filed emergency 12/21/76—published 1/12/77, effective 1/12/77]

[Filed without Notice 2/4/77—published 2/23/77, effective 3/30/77]

[Filed 8/18/77, Notice 3/9/77—published 9/7/77, effective 10/13/77]

[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]

[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]

[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]

[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]

[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]

[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]

[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]

[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]

[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]¹

[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]²

[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]

[Filed 3/12/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]

[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]

[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]³

[Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]

[Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]

[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]

[Filed 12/9/88, Notices 8/24/88, 10/5/88—published 12/28/88, effective 2/1/89]

[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
 [Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
 [Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
 [Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
 [Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
 [Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
 [Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
 [Filed 5/21/93, Notice 11/25/92—published 6/9/93, effective 7/14/93]³
 [Filed 3/11/94, Notice 9/15/93—published 3/30/94, effective 5/4/94]
 [Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
 [Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
 [Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
 [Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
 [Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
 [Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
 [Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
 [Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
 [Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
 [Filed 7/13/05, Notice 6/8/05—published 8/3/05, effective 9/7/05]
 [Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
 [Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]
 [Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
 [Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
 [Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
 [Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
 [Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1476C (Notice ARC 1413C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]
 [Filed ARC 1753C (Notice ARC 1649C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]
 [Filed ARC 2273C (Notice ARC 2162C, IAB 9/30/15), IAB 12/9/15, effective 1/13/16]
 [Filed ARC 2643C (Notice ARC 2395C, IAB 2/3/16), IAB 8/3/16, effective 9/7/16]⁴

⁰ Two or more ARCs

¹ Effective date of 470—57.15(2)“a” and “b” delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 6/4/86.

² See IAB, Inspections and Appeals Department.

³ Effective date of 481—57.12(2)“a,” last paragraph, delayed 70 days by the Administrative Rules Review Committee at its meeting held July 8, 1993.

⁴ September 7, 2016, effective date of 57.19(3)“d,” 62.15(2)“d,” and 63.18(3)“d” [ARC 2643C] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 5, 2016.

CHAPTER 62
RESIDENTIAL CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (RCF/PMI)

481—62.1(135C) Definitions. For the purposes of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered incorporated verbatim in the rules. The use of the words “shall” and “must” indicate these standards are mandatory.

“Academic services” means those activities provided to assist a person to acquire general information and skills which establish the basis for subsequent acquisition and application of knowledge.

“Age appropriate” means those activities, settings, and personal appearance and possessions commensurate with the person’s chronological age.

“Chronic mental illness” means a persistent mental or emotional disorder that seriously impairs an adult’s functioning relative to such primary aspects of daily living as personal relations, living arrangements, or employment.

“Commission” means the mental health and mental retardation commission.

“Community living training services” are those activities provided to assist a person to acquire or sustain the knowledge and skills essential to independent functioning to the person’s maximum potential in the physical and social environment. These services may focus on the following areas:

1. Independent living skills means those skills necessary to sustain oneself in the physical environment and are essential to the management of one’s personal property and business. This includes self-advocacy skills.

2. Socialization skills which include self-awareness and self-control, social responsiveness, group participation, social amenities, and interpersonal skills.

3. Communication skills which include expressive and receptive skills in verbal and nonverbal language including reading and writing.

4. Leisure time and recreational skills which include the skills necessary for a person to use leisure time in a manner which is satisfying and constructive to the person.

5. Parenting skills which include those skills necessary to meet the needs of the person’s child. This service is designed to assist the person with mental illness to acquire or sustain the skills necessary for parenting.

“Department” means the Iowa department of inspections and appeals.

“Dependent adult abuse” is as defined in rule 481—52.1(235E).

“Diagnosis” means the investigation and analysis of the cause or nature of a person’s condition, situation, or problem.

“Direct care staff” means those staff persons who provide a homelike environment for the residents and assist or supervise the resident in meeting the goals in the resident’s program plan.

“Evaluation services” means those activities designed to identify a person’s current functioning level and those factors which are barriers to maintaining the current level or achieving a higher level of functioning.

“Exploitation” means the act or process of taking unfair advantage of a resident, or the resident’s physical or financial resources, for one’s own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

“Goals” means general statements of attainable expected accomplishments to be achieved in meeting identified needs.

“Incident” means all accidental, purposeful, or other occurrences within the facility or on the premises affecting residents, visitors, or employees whether there is apparent injury or where hidden injury may have occurred.

“Individual program plan (IPP)” means a written plan for the provision of services to the resident that is developed and implemented using an interdisciplinary process, that is based on the resident’s functional status, strengths and needs, and that identifies service activities designed to enable a person

to maintain or move toward independent functioning. The plan identifies a continuum of development and outlines progressive steps and anticipated outcomes of services.

“Informed consent” means an agreement by a person, or by the person’s legally authorized representative, based upon an understanding of:

1. A full explanation of the procedures to be followed including an identification of those that are and are not experimental,
2. A description of the attendant discomforts, risks, and benefits to be expected,
3. A disclosure of appropriate alternative procedures that would be advantageous for the person.

“Interdisciplinary process” means an approach to assessment, individual program planning, and service implementation in which planning participants function as a team. Each participant utilizing the skills, competencies, insights and perspectives provided by the participant’s training and experience focuses on identifying the service needs of the resident and the resident’s family. The purpose of the process is for participants to review and discuss, face-to-face, all information and recommendations and to reach decisions as a team. Participants share all information and recommendations, and develop as a team a single, integrated, individual program plan to meet the resident’s and, when appropriate, the resident’s family’s needs.

“Interdisciplinary team” means the group of persons who develop a single, integrated, individual program plan to meet a resident’s needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident’s legal guardian, if applicable, the resident’s advocate if desired by the resident, a referral agency representative, other appropriate staff members, other providers of services, and other persons relevant to resident’s needs.

“Least restrictive environment” means the environment in which the interventions in the lives of people with mental illness can be carried out with a minimum of limitation, intrusion, disruption, and departure from commonly accepted patterns of living.

It is the environment which allows residents to participate, to the maximum extent possible, in everyday life and to have control over the decisions that affect them. It is an environment that provides needed supports which do not interfere with personal liberty and do not unduly interfere with a person’s access to the normal events of life.

“Legal services” means those activities designed to assist the person in exercising constitutional and legislatively enacted rights.

“Level of functioning” means a person’s current physiological and psychological status and current academic, community living, self-care, and vocational skills.

“Long-term residential care facility for persons with mental illness (RCF/PMI)” means a residential setting to maintain or improve community living skills to reach maximum potential for independent living and to prevent movement to a more restrictive setting.

“Mechanical restraint” means a device applied to a person’s limbs, head, or body which restricts a person’s movement and includes but is not limited to leather straps, leather cuffs, camisoles, or handcuffs.

“Mental abuse” means, but is not limited to, humiliation, harassment, and threats of punishment or deprivation.

“Mental illness” means a substantial disorder of thought or mood which significantly impairs judgment, behavior, or the capacity to recognize reality or the ability to cope with the ordinary demands of life. Mental disorders include the organic and functional psychoses, neuroses, personality disorders, alcoholism and drug dependence, behavioral disorders and other disorders as defined by the current edition of American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

“Normalization” means helping persons, in accordance with their needs and preference, to achieve a lifestyle that is consistent with the norms and patterns of general society and in ways which incorporate the age-appropriate and least restrictive principles.

“Objectives” means specific, time-limited, and measurable statements showing outcomes or accomplishments necessary to progress toward the goal.

“Physical abuse” means, but is not limited to, corporal punishment and the use of restraints as punishment.

“Physical injury” means damage to any bodily tissue to the extent the tissue must undergo a healing process in order to be restored to a sound and healthy condition. It may also mean damage to the extent the bodily tissue cannot be restored to a sound and healthy condition, or results in the death of the resident whose bodily tissue sustained the damage.

“Physical or physiological treatment” means those activities designed to prevent, halt, control, relieve, or reverse symptoms or conditions which interfere with the physical or physiological functioning of the human body.

“Physical restraint” means a technique involving the use of one or more of a staff person’s arms, legs, hands or other body areas to restrict or control the movements of a resident. This does not include the use of mechanical restraint.

“Physician” means a person licensed to practice medicine and surgery, osteopathy and surgery, osteopathy, or chiropractic under the laws of this state; but a physician licensed as a physician and surgeon shall be designated as a “physician” or “surgeon”; a person licensed as an osteopath and surgeon shall be designated as an “osteopathic physician” or “osteopathic surgeon”; a person designated as an osteopath shall be designated as an “osteopathic physician”; and a person licensed as a chiropractor shall be designated as a “chiropractor.”

“Primary care provider” means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“Program” means a set of related resources and services directed to the accomplishment of a fixed set of goals and objectives for any of the following:

1. Special target populations,
2. The population of a specified geographic area(s),
3. A specified purpose, and
4. A person.

“Psychotherapeutic treatment” means those activities designed to assist a person in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the person’s functioning in response to the physical, emotional and social environment.

“Qualified mental health professional (QMHP)” means a person who:

Is a psychiatrist, psychologist, social worker, psychiatric nurse or mental health counselor; or

Is a doctor of medicine or osteopathic medicine or has at least a master’s degree or its equivalent with coursework focusing on diagnosis and evaluation and psychotherapeutic treatment of mental health problems and mental illness.

Equivalent means at least 32 semester hours of graduate level study in the following areas:

1. Psychology (normal and abnormal)
2. Assessment (psychological and physiological)
3. Growth, development, and personality
4. Learning theory
5. Counseling theory and technique (group dynamics)
6. Human behavior
7. Sociology
8. Interpersonal relations
9. Change
10. Systems theory
11. Interdisciplinary team process
12. Organizational theory
13. Planning

These persons must have two years of documented supervised experience in providing mental health services; or

Is employed by a community mental health center or mental health service provider accredited by the commission and has less than a master's degree but at least a bachelor's degree and sufficient education and experience as determined by the chief administrative officer of the community mental health center, with the approval of the commission with coursework and experience focusing on diagnosis and evaluation and treatment of persons with mental health problems and mental illness.

All persons must hold a current license when required by Iowa law.

1. *"Psychiatrist"* means a doctor of medicine or osteopathic medicine and surgery who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification.

2. *"Psychologist"* means a person who is licensed to practice psychology in the state of Iowa, or is certified by the Iowa department of education as a school psychologist, or is eligible for certification, or meets the requirements for eligibility for a license to practice psychology in the state of Iowa that were effective prior to July 1, 1985.

3. *"Social worker"* means a person who is licensed to practice social work in the state of Iowa, or who is eligible for licensure.

4. *"Psychiatric nurse"* means a person who meets the requirements of certified psychiatric-mental health nurse practitioner pursuant to 655—Chapter 7, Iowa Administrative Code, or is eligible for certification.

5. *"Mental health counselor"* means a person who is certified or eligible for certification as a mental health counselor by the National Academy of Certified Clinical Mental Health Counselors.

"Resident" means a person who has been admitted to the facility to receive care and services.

"Seclusion" means the isolation of the resident in a locked room which cannot be opened by the resident.

"Self-care training services" means those activities provided to assist a person to acquire or sustain the knowledge, habits, and skills essential to the daily needs of the person. The activities focus on personal hygiene, general health maintenance, mobility skills, and other activities of daily living.

"Service" means a set of interrelated activities provided to a resident pursuant to the IPP.

"Sexual abuse" means, but is not limited to, the exposing of pubes to a resident, the exposure of a resident's genitals, pubes, breasts or buttocks for sexual satisfaction, fondling or touching the inner thigh, groin, buttocks, anus or breast of a resident or the clothing covering these areas, sexually suggestive comments or remarks made to a resident, a genital to genital or oral to genital contact or the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2.

"Short-term transitional residential care facility for persons with mental illness" means a transitional setting to move the person toward independent living by helping the person gain mastery of independent living skills.

"Support services" means those activities provided to or on behalf of a person in the areas of personal care and assistance and property maintenance in order to allow a person to live in the least restrictive environment.

"Transportation services" means those activities designed to assist a person to travel from one place to another to obtain services or carry out life's activities.

"Verbal abuse" means, but is not limited to, the use of derogatory terms or names, undue voice volume and rude comments, orders, or responses to residents.

"Vocational training services" means those activities designed to familiarize a person with production or employment requirements and to maintain or develop the person's ability to function in a work setting. This service includes programming which allows or promotes the development of skills, attitudes, and personal attributes appropriate to the work setting.

"Work" means any activity during which a resident provides goods or services for wages.

"Written, in writing or recorded" means that an account or entry is made in a permanent form.

[ARC 1204C, IAB 12/11/13, effective 1/15/14; ARC 1752C, IAB 12/10/14, effective 1/14/15]

481—62.2(135C) Application for license.

62.2(1) Initial application and licensing. In order to obtain an initial license for a residential care facility for persons with mental illness, the applicant must meet all of the rules, regulations, and standards

contained in Iowa Code chapter 135C, and Iowa Administrative Code 481—Chapters 60 and 62, and submit an application to the department which states the type and category of license for which the facility is applying.

a. Submit a résumé of care with a narrative which includes the following information:

(1) The purpose of the facility.

(2) A description of the target population and limitations on resident eligibility.

(3) An identification and description of the services the facility will provide which shall minimally include specific and measurable goals and objectives for each of the services to be made available by the facility and a description of the resources needed to provide each of the services including staff, physical facilities and funds.

(4) A description of the human services system available in the area, including, but not limited to, social, public health, visiting nurse, vocational training, employment services, sheltered living arrangements, and services of private agencies.

(5) A description of working relationships with the human services agencies when applicable, which shall include at a minimum:

1. A description of how the facility will coordinate with the human services to facilitate continuity of care and coordination of services to residents; and

2. A description of how the facility will coordinate with those agencies to identify unnecessary duplication of services and plan for development and coordination of needed services.

b. Submit a floor plan of each floor of the facility drawn on 8½- x 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathroom; and designation of the use to which room will be put and window and door location;

c. Submit a photograph of the front and side elevation of the facility;

d. Submit the statutory fee for a residential care facility license;

e. Show evidence of a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules.

62.2(2) *Renewal application or change of ownership.* In order to obtain a renewal or change of ownership license of the residential care facility to serve persons with mental illness the applicant must:

a. Submit to the department the completed application form 30 days prior to annual license renewal or change of ownership date of the residential care facility license.

b. Submit the statutory license fee for a residential care facility for persons with mental illness with the application for renewal or change of ownership.

c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules.

d. Submit documentation of review of résumé of care pursuant to 62.2(1) “*a*” and a copy of any revisions to the plan.

This rule is intended to implement Iowa Code sections 135C.7 and 135C.9.

481—62.3(135C) Licenses for distinct parts.

62.3(1) Separate licenses may be issued for distinct parts which are clearly identifiable parts of a health care facility, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

62.3(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part. (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought.

c. The distinct part must be operationally and financially feasible.

d. A separate personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management.

(III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

62.3(3) Licenses are issued to the person or governmental unit which has responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations.

The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

This rule is intended to implement Iowa Code sections 135C.6(1) and 135C.6(2).

481—62.4(135C) Variances. Variances from these rules may be granted by the director of the department:

1. When the need for a variance has been established consistent with the résumé of care or the resident's individual program plan.
2. When there is no danger to the health, safety, welfare, or rights of any resident.
3. The variance will apply only to a specific residential care facility for the mentally ill.
4. Variances shall be reviewed at the time of each licensure survey by the department to see if the need for the variance is still acceptable.

62.4(1) To request a variance, the licensee must:

- a. Apply in writing on a form provided by the department;
- b. Cite the rule or rules from which a variance is desired;
- c. State why compliance with the rule or rules cannot be accomplished;
- d. Explain how the variance is consistent with the résumé of care or the individual program plan;
- e. Demonstrate that the requested variance will not endanger the health, safety, welfare, or rights of any resident.

62.4(2) Upon receipt of a request for variance, the director shall:

- a. Examine the rule from which the variance is requested;
- b. Evaluate the requested variance against the requirement of the rule to determine whether the request is necessary to meet the needs of the residents;
- c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
- d. Consult with the applicant to obtain additional written information if required.

62.4(3) Based upon this information, approval of the variance will be either granted or denied within 120 days of receipt.

481—62.5(135C) General requirements.

62.5(1) The license shall be valid and be posted in each facility so the public can see it easily. (III)

62.5(2) The license shall be valid only for the premises and person named on the license and is not transferable.

62.5(3) The posted license shall accurately reflect the current status of the residential care facility for persons with mental illness. (III)

62.5(4) Licenses expire one year after the date of issuance or as indicated on the license.

62.5(5) There shall be no more beds erected than are stipulated on the license. (II, III)

62.5(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

This rule is intended to implement Iowa Code section 135C.8.

481—62.6(135C) Notification required by the department. The department shall be notified:

Within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staff ratio below that required for licensing. No additional residents shall be admitted until the minimum staff requirements are achieved. (II, III)

Within 30 days of any proposed change in the résumé of care for the RCF/PMI. (II, III)

Thirty days before addition, alteration, or new construction is begun in the residential care facility or on the premises; (III)

Thirty days in advance of closure of the residential care facility for persons with mental illness; (III)

Within two weeks of any change of administrator; (II, III)

Within 30 days when any change in the category of license is sought. (III)

Prior to the purchase, transfer, assignment, or lease of a residential care facility the licensee shall:

1. Inform the department in writing of pending sale, transfer, assignment, or lease of the facility; (III)

2. Inform the department in writing of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)

3. Submit a written authorization to the department permitting the department to release information of whatever kind from the department's files concerning the licensee's residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

After the authorization has been submitted to the department, the department shall upon request send or give copies of all recent licensure surveys and any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee or lessee. Costs for copies requested shall be paid by the prospective purchaser, transferee, assignee or lessee. No information personally identifying any resident shall be provided to prospective purchaser, transferee, assignee or lessee. (II, III)

This rule is intended to implement Iowa Code sections 135C.6(3) and 135C.16(2).

481—62.7(135C) Administrator. Each residential care facility for persons with mental illness shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (II, III)

62.7(1) The administrator shall be at least 21 years of age and shall meet at least one of the following conditions:

a. Be a licensed nursing home administrator, or a certified residential care administrator in Iowa. These individuals must have at least two years' experience in direct care or supervision of persons with mental illness, (II, III) or

b. Be a qualified mental health professional (QMHP) with at least one year of experience in an administrative capacity in a health care facility, (II, III) or

c. Have completed a one-year educational training program approved by the department with emphasis on serving the needs of persons with mental illness, and two years' experience in direct care or supervision of persons with mental illness. (II, III)

d. Those individuals currently employed as administrators on the effective date of these rules (March 30, 1988) shall not be required to meet the above criteria during their employment in the current facility.

62.7(2) The administrator shall be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II, III)

a. The distance between the two farthest facilities shall be no greater than 50 miles. (II, III)

b. An administrator of more than one facility must designate an administrative staff person in each facility who shall be responsible for directing programs in the facility during the administrator's absence. (II, III)

62.7(3) The administrative staff person shall be designated in writing and immediately available to the facility on a 24-hour basis when the administrator is absent and residents are in the facility. (II, III)

The person(s) designated shall:

a. Have at least two years' experience or training in a supervisory or direct care position in a mental health setting; (II, III)

b. Be knowledgeable of the operation of the facility; (II, III)

c. Have access to records concerned with the operation of the facility; (II, III)

d. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)

e. Be at least 21 years of age; (III)

f. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (II, III)

g. Have training to carry out assignments and take care of emergencies and sudden illnesses of residents. (II, III)

62.7(4) If an administrator serves more than one facility, a written plan shall be developed and available for review and approval by the department designating regular and specific times the administrator will be available to meet with the staff and residents to provide direction and supervision of resident care and services. (II, III)

62.7(5) The licensee may be the approved administrator providing the requirements set forth in these rules are met. (III)

62.7(6) When a facility has been unable to replace the administrator, through no fault of its own, a provisional administrator meeting the qualifications of the administrative staff person may be appointed on a temporary basis by the licensee to assume the administrative responsibilities for the facility. This person shall not serve more than three months. The department must be notified before the appointment of the provisional administrator. (III)

A facility applying for initial licensing shall not have a provisional administrator. (III)

This rule is intended to implement Iowa Code section 135C.14(2).

481—62.8(135C) Administration.

62.8(1) The licensee shall:

a. Be responsible for the overall operation of the RCF/PMI. (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department. (II, III)

c. Establish written policies, which shall be available for review by the department or other agencies designated by Iowa Code section 135C.16(3), for the operation of the RCF/PMI including but not limited to: (III)

1. Personnel (III)

2. Admission (III)

3. Evaluation services (II, III)

4. Programming and individual program plan (II, III)

5. Crisis intervention (II, III)

6. Discharge or transfer (III)

7. Medication management (II)

8. Resident property (II, III)

9. Financial affairs (II, III)

10. Records (III)

11. Health and safety (II, III)

12. Nutrition (III)

13. Physical facilities and maintenance (III)

14. Care review (III)

15. Resident rights (II, III)

d. Furnish statistical information concerning the operation of the facility to the department within 30 days of request. (III)

62.8(2) The administrator shall be responsible for the implementation of procedures to support the policies established by the licensee. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.9(135C) Personnel.

62.9(1) The personnel policies and procedures shall include the following requirements: (III)

a. Written job descriptions for all employees or agreements for all consultants, which include duties and responsibilities; education, experience, or other requirements, and supervisory relationships. (III)

b. Annual performance evaluation of all employees and consultants which is dated and signed by the employee or consultant and the supervisor. (III)

c. Personnel records which are current, accurate, complete, and confidential to the extent allowed by law. The record shall contain documentation of how the employee's or consultant's education and experience are relevant to the position for which hired. (III)

d. Roles, responsibilities, and limitation of student interns and volunteers. (III)

e. An orientation program for all newly hired employees and consultants which includes an introduction to the facility's personnel policies and procedures, and a discussion of the facility's safety plan. (II, III)

f. A plan for a continuing education program with a minimum of eight in-service programs per year for all employees which shall include a written, individualized staff development plan for each employee. This includes, but is not limited to, the administrator, department heads, and direct care staff. The plan shall take into consideration the needs of the facility as identified in the résumé of care. The plan shall ensure that each employee has the opportunity to develop and enhance skills and to broaden and increase knowledge contributing to effective resident care, including but not limited to: (II, III)

(1) First aid. (II, III)

(2) Human needs and behavior. (II, III)

(3) Problems and needs of persons with mental illness. (II, III)

(4) Medication. (II, III)

(5) Crisis intervention. (II)

(6) Delivery of services in accordance with the principles of normalization. (III)

(7) Wellness. (III)

(8) Fire safety, disaster, and tornado preparation. (II, III)

g. Equal opportunity and affirmative action employment practices. (III)

h. Procedures to be used when disciplining an employee. (III)

i. Appropriate dress and personal hygiene for staff and residents. (III)

62.9(2) The facility shall require regular health examinations for all personnel, and examinations shall be required at the commencement of employment and thereafter at least every four years. The examination shall include, at a minimum, the health status of the employee. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (III)

a. No person shall be allowed to provide services in a facility if the person has a disease:

(1) Which is transmissible through required workplace contact, (I, II, III)

(2) Which presents a significant risk of infecting others, (I, II, III)

(3) Which presents a substantial possibility of harming others, and (I, II, III)

(4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

Refer to Guidelines for Infection Control in Hospital Personnel, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).

b. There shall be written policies for emergency medical care for employees in case of sudden illness or accident. These policies shall include the administrative individuals to be contacted. (III)

c. Health certificates for all employees shall be available for review by the department. (III)

62.9(3) Staffing. The facility shall establish, subject to approval of the department, the numbers and qualifications of the staff required in an RCF/PMI using as its criteria the services being offered as indicated on the résumé of care and as required for implementation of individual program plans. (II, III)

a. Personnel in an RCF/PMI shall provide 24-hour coverage for residential care services. Personnel shall be up and dressed at all times in facilities over 15 beds. In facilities with 15 or less beds, personnel shall be up and dressed when residents are awake. (II, III)

b. The policies and procedures shall provide for staff accessibility during normal sleeping hours in facilities with 15 beds or less. (I)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. The policies and procedures shall provide for an on-call staff person to be available when residents and staff are absent from the facility. (II, III)

- (1) The on-call staff person shall be designated in writing.
- (2) Residents shall be informed of how to call the on-call person.

d. The staffing plan shall ensure that at least one qualified direct care staff is on duty to carry out and implement the individual program plans. (II, III)

e. The RCF/PMI shall provide for services of a qualified mental health professional by direct employment or contract and whose responsibilities shall include, but not be limited to: (II, III)

- (1) Approval of each resident's individual program plan; (II, III)
- (2) Monitoring the implementation of each resident's individual program plan; (II, III)
- (3) Recording each resident's progress; (II, III)
- (4) Participation in a periodic review of each individual program plan pursuant to 62.12(4) "a" and "b." (II, III)

f. Each residential care facility with over 15 beds shall employ a person to direct the activity program both inside and outside the facility in accordance with each resident's individual program plan. (III)

g. Staff for the activity program shall be provided on a minimum basis of 45 minutes per licensed bed per week:

(1) The activity coordinator shall have completed the activity coordinator's orientation course approved by the department within six months of beginning employment or have comparable training and experience as approved by the department. (III)

(2) The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. (III)

(3) There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

h. The activity coordinator shall have access to all residents' records excluding financial records; (III)

i. Responsibilities of the activity coordinator shall include:

(1) Coordinating all activities, including volunteer or auxiliary activities and religious services. (III)

(2) Keeping all necessary records including attendance, individual resident progress notes at least quarterly, and monthly calendars prepared one month in advance. (III)

(3) Coordinating the activity program with all other services in the facility. (III)

(4) Participating in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

62.9(4) Personnel record.

a. A personnel record shall be kept for each employee. (III)

b. The record shall include the employee's:

1. Name and address, (III)
2. Social security number, (III)
3. Date of birth, (III)
4. Date of employment, (III)
5. References, (III)
6. Position in the facility, (III)
7. Job description, (III)
8. Documentation of experience and education, (III)
9. Staff development plan, (III)
10. Annual performance evaluation, (II, III)
11. Documentation of disciplinary action, (II, III)
12. Date and reason for discharge or resignation, (III)
13. Current physical examination. (III)

62.9(5) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

This rule is intended to implement Iowa Code sections 135C.14(2) and 135C.14(6).
[ARC 0663C, IAB 4/3/13, effective 5/8/13; ARC 0903C, IAB 8/7/13, effective 9/11/13; ARC 1205C, IAB 12/11/13, effective 1/15/14]

481—62.10(135C) General admission policies. There shall be admission policies which address the following:

1. No resident shall be admitted or retained who is in need of greater services than the facility can provide. (II, III)
2. Residents shall be admitted only on a written order signed by a physician certifying that the individual requires no more than personal care and supervision and does not require nursing care. (II, III)
3. A preplacement visit shall be completed prior to admission, except in case of an emergency admission or readmission, to familiarize the applicant with the facility and services offered. The policies and procedures may allow for waiving the requirement at the request of a person seeking admission when the completion of the visit would create a hardship for the person seeking admission. If the distance to be traveled makes it impossible to complete the visit in an eight-hour day, this may be considered to create a hardship. (III)
4. Prior to admission of an applicant, the facility shall obtain sufficient information to determine if its program is appropriate and adequate to meet the person's needs. (III)
5. Admission criteria shall include but not be limited to age, sex, diagnosis, from the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, substance abuse, dual diagnosis and criteria that are consistent with the résumé of care. (III)
6. Each facility shall maintain a waiting list with selection priorities identified. (III)
7. No RCF/PMI may admit more residents than the number of beds for which it is licensed. (II, III)
8. There shall be a written, organized orientation program for all residents which shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the health care, recovery, and rehabilitation of the individual and which shall be available for review by the department. (III)
9. Infants and children under the age of 18 shall not be admitted to an RCF/PMI for adults unless given prior written approval by the department. A distinct part of an RCF/PMI, segregated from the adult section, may be established based on a résumé of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

This rule is intended to implement Iowa Code sections 135C.3 and 135C.23.

481—62.11(135C) Evaluation services.

62.11(1) Each resident admitted shall have had a physical examination prior to admission and annually thereafter. (II, III)

- a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be part of the record in lieu of an additional physical examination. (II, III)
- b. The record of the admission physical examination shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedure. (II, III)
- c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (II, III)

62.11(2) Evaluation services shall be provided to each resident. An annual evaluation of each resident shall be completed no later than 12 months from the date of the last available evaluation. For

residents who are on leave from a state mental health institution, the institution shall be responsible for the completion of the evaluation. The facility shall ensure the completion of the evaluation of all other residents. The annual evaluation shall identify physical health and current level of functioning and need for services. (II, III)

62.11(3) The portion of the evaluation to identify the resident's physical health shall:

a. Result in identification of current illness and disabilities and recommendations for physical and physiological treatment and services. (II, III)

b. Include an evaluation of the resident's ability for health maintenance. (III)

c. Be performed by a medical doctor or doctor of osteopathic medicine who holds a current license to practice medicine in the state of Iowa. If the evaluation is completed out of Iowa, it must be by a physician who holds a current license in the state in which the evaluation is performed. (II, III)

62.11(4) The portion of the evaluation to identify the resident's current functioning level and need for services shall:

a. Identify the resident's level of functioning and need for services in each of the following areas: self-care, community living skills, psychotherapeutic treatment, vocational skills, academic skills. (II, III)

b. Be of sufficient detail to determine the appropriateness of placement according to the skills and needs of the resident. (II, III)

c. Be made without regard to the availability of services. (III)

d. Be performed by a QMHP, in consultation with the interdisciplinary team. (II, III)

e. If an evaluation is available from the referral source, the evaluation shall be secured by the facility prior to the admission of the applicant. (III)

f. If an evaluation is not available, or does not contain all the required information, the facility shall ensure an evaluation to the extent necessary to determine if the applicant meets the criteria for admission. For those admitted, the remainder of the evaluation shall be performed prior to the development of an individual program plan. (III)

g. Results of all evaluations shall be in writing and maintained in the resident's record. Evaluations subsequent to the initial evaluation shall be performed in sufficient detail to determine changes in the resident's physical health, skills and need for services. (II, III)

62.11(5) A narrative social history shall be completed for each resident within 30 days of admission and approved by the qualified mental health professional prior to the development of the IPP. (III)

a. When the social history was secured from another provider, the information contained shall be reviewed within 30 days of admission. The date of the review, signature of the staff reviewing the history and a summary of significant changes in the information shall be entered in the resident's record. (III)

b. An annual review of the information contained within the social history shall be incorporated into the individual program plan progress note. (III)

c. The social history shall minimally address the following areas:

1. Referral source and reason for admission, (II, III)

2. Legal status, (II, III)

3. A description of previous living arrangements, (III)

4. A description of previous services received and summary of current service involvements, (II, III)

5. A summary of significant medical conditions including, but not limited to, illnesses, hospitalizations, past and current drug therapies, and special diets, (II, III)

6. Substance abuse history, (II, III)

7. Work history, (III)

8. Educational history, (III)

9. Relationship with family, significant others, and other support systems, (III)

10. Cultural and ethnic background and religious affiliation, (II, III)

11. Hobbies and leisure time activities, (III)

12. Likes, dislikes, habits, and patterns of behavior, (II, III)

13. Impressions and recommendations.

This rule is intended to implement Iowa Code section 135C.14(7).

[ARC 0663C, IAB 4/3/13, effective 5/8/13]

481—62.12(135C) Programming.

62.12(1) Individual program plan. An individual program plan (IPP) for each resident shall be developed by an interdisciplinary team. Services to the resident shall be appropriate to address the short-term transitional or long-term residential needs of the resident. The resident or the resident's legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by the court. The IPP shall be approved and implementation monitored by the QMHP. (II, III)

a. The IPP shall be based on the individual service plan of the referring agency, if available, the information contained in the social history, the need for services identified in the evaluation, and any other pertinent information. (III)

b. The facility shall assist the resident in obtaining access to academic, community living skills training, legal, self-care training, support, transportation, treatment, and vocational training services to the resident as needed. These services may be provided by the facility or obtained from other providers. (III)

c. Services to the resident shall be provided in the least restrictive environment and shall incorporate the principle of normalization. (III)

d. If needed services are not available and accessible, the facility shall document the actions which were taken to locate and access or deliver those services. The documentation shall include the identification of the type of needs which will not be met due to the lack of available services. (III)

e. The IPP shall be developed within 30 days following admission to the facility and renewed at least annually. (II, III)

f. The IPP shall be in writing, dated, signed by the interdisciplinary team members, and maintained in the resident's record. (III)

g. Written notice of the meeting to develop an IPP shall be sent to all persons to be included in the interdisciplinary team conference in advance of the scheduled meeting. (III)

62.12(2) The IPP shall include the following:

1. Goals, (III)

2. Objectives, (III)

3. The specific service(s), including medication counseling, to be provided to achieve the objectives, the person(s) or agency(ies) responsible for providing the service(s), and the date of initiation and anticipated duration of service(s). (III)

62.12(3) The IPP shall state the evaluation procedure for determining if objectives are achieved which shall include the incorporation of a continuous process for review and revision. (III)

62.12(4) There shall be a review of the IPP by relevant staff, the resident, and appropriate others at least semiannually. (II, III)

a. The review shall include the development of a written report which addresses the following: summary of the resident's progress toward objectives; the need for continued services and any recommendation concerning alternative services or living arrangements; and any recommended change in guardianship or conservatorship status. The report shall reflect those involved in the review and the date of the review, and shall be maintained in the resident's record. (II, III)

b. The review shall be approved by the qualified mental health professional. (III)

62.12(5) There shall be procedures for recording the activities of each service provider toward assisting the resident in achieving the objectives in the IPP and the resident's response which shall include a mechanism for coordination with all service providers. (III)

a. An entry into the resident's record shall be made by staff whenever possible at the time of service provision but no later than seven days from service provision. (III)

b. Entries shall be dated and signed by the person providing the service. (III)

c. When the service includes ongoing activities occurring more than once a week, a summarized entry may be made weekly by staff in the resident's record. (III)

d. Entries shall be written in terms of behavioral observations and specific activities. Entries that involve subjective interpretations of a resident's behavior or progress shall be clearly identified and shall be supplemented with the behavioral observations which served as the basis of the interpretation. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.13(135C) Crisis intervention.

62.13(1) There shall be written policies and procedures concerning crisis intervention. (II) These policies and procedures shall be:

- a. Directed to maximizing the growth and development of the individual by incorporating a hierarchy of available alternative methods that emphasize positive approaches; (II, III)
- b. Available in each program area and living unit; (II, III)
- c. Available to individuals and their families; and (II, III)
- d. Developed with the participation, as appropriate, of individuals served. (II, III)

62.13(2) Corporal punishment and verbal abuse (shouting, screaming, swearing, name-calling, or any other activity that would be damaging to an individual's self-respect) are prohibited by written policy. (II)

62.13(3) Medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program. Direct care staff shall monitor residents on medication and notify the physician if a resident is too sedated to participate in IPP. (I, II)

62.13(4) Residents shall not be subjected to mechanical restraint. (I, II)

62.13(5) There shall be written policies that define the uses of seclusion and physical restraints, designate the staff member(s) who may authorize its use, and establish a mechanism for monitoring and controlling its use. (I, II) Temporary physical restraint and temporary seclusion of residents shall be used only under the following conditions: (I, II)

- a. An emergency to prevent injury to the resident or to others; or (I, II)
- b. For crisis intervention but shall not be used for punishment, for the convenience of staff or as a substitution for supervision or program; (I, II) and
- c. Seclusion may only be used in an RCF/PMI if a variance is granted. When a seclusion room is used, it shall meet the standards set out in 481—subrule 61.5(12). (I, II)

62.13(6) The physician and QMHP shall be notified immediately of the resident's need for placement in seclusion and a time-limited order for seclusion obtained from the physician. The order shall be for no more than one hour at a time. If the resident is placed in seclusion longer than one hour, the resident shall be visited and evaluated by the physician or qualified mental health professional before a continuation of the seclusion order can be obtained. If the evaluation is conducted by a QMHP, the physician shall be notified of the resident's condition and the physician shall see the resident within 24 hours of each incident of seclusion and sign the seclusion order. (I, II)

62.13(7) If orders for seclusion remain in force for more than a total of 3 hours in a 24-hour period, the facility shall make arrangements for immediate transfer of the resident to a higher level of care. (I, II)

62.13(8) Standing or PRN orders for seclusion are prohibited. (I, II)

62.13(9) Written documentation of the above information shall be kept as a part of each resident's record and the administrator shall be responsible for maintaining a daily record of seclusion usage which shall be kept available for review by the department. (II, III)

62.13(10) Written documentation shall be kept of each incident of seclusion to minimally include: (II)

- a. Explanation of less restrictive measures implemented prior to use of seclusion, (I, II)
- b. Record of visual observation of the resident every ten minutes or more frequently if needed, (I)
- c. Description of the resident's activity at the time of observation to include verbal exchange and behavior, (I, II)
- d. Description of safety procedures taken (removal of dangerous objects, etc.), (I)
- e. Record of vital signs including blood pressure, pulse and respiration unless contraindicated by resident behavior and reasons documented, (I, II)

- f.* Record of intake of food and fluid, (II, III)
- g.* Record of rest room use, (II, III)
- h.* Record of numbers of hours and minutes in seclusion. (II)

62.13(11) The facility shall provide training by qualified professionals to the staff on physical restraint and seclusion theory and techniques. (I)

a. The facility shall keep a record of above training for review by the department and shall include attendance. (II, III)

b. Only staff who have documented training in physical restraint and seclusion theory and techniques shall be authorized to assist with seclusion or physical restraint of a resident. (I)

c. Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident. (I)

This rule is intended to implement Iowa Code section 135C.14.

481—62.14(135C) Discharge or transfer. Procedures for the discharge or transfer of the resident shall be established and followed: (II, III)

62.14(1) Discharge plan. The decision to discharge a person and the plan for doing so shall be established through the participation of the resident, members of the interdisciplinary team and other resource personnel as appropriate for the welfare of the individual. (II, III)

a. Discharge planning shall begin within 30 days of admission and be carried out in accordance with the IPP. (II, III)

b. As changes occur in a resident's physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, the resident shall be transferred promptly to another appropriate facility pursuant to 62.10(1) "a." (I, II)

c. Notification shall be made to the resident's family, the resident's legal representative, primary care provider, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

d. Proper arrangements shall be made for the welfare of the resident prior to the transfer or discharge in the event of an emergency or inability to reach the resident's family or the resident's legal representative. (III)

e. The licensee shall not refuse to discharge or transfer a resident when directed by the primary care provider, resident, legal representative, or court. (II, III)

f. Advance notification by telephone shall be made to the receiving facility prior to the transfer of any resident. (III)

g. When a resident is transferred or discharged, the current evaluation and treatment plan and progress notes for the last 30 days, as set forth in these rules, shall accompany the resident. (II, III)

h. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II, III)

i. A discharge or transfer authorization and summary shall be prepared for each resident who has been discharged or transferred from the facility and shall be disseminated to appropriate persons to ensure continuity of care and in accordance with the requirements to ensure confidentiality. (II, III)

j. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer.

62.14(2) Intrafacility transfer. Residents shall not be moved from room to room within a health care facility arbitrarily. (I, II)

a. Involuntary relocation may occur only to implement goals and objectives in the IPP and in the following situations:

(1) Incompatibility with or behavior disturbing to roommates, as documented in the residents' records; (I, II)

(2) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex; (II, III)

(3) Reasonable and necessary administrative decisions regarding the use and functioning of the building. (II, III)

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or legal guardian include:

- (1) Punishment or behavior modification. (II)
- (2) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph "a," the resident shall be notified at least 48 hours prior to the transfer and the reason shall be explained. The legal guardian shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or legal guardian. (II)

d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family and legal guardian shall be notified immediately, or as soon as possible, of the condition requiring emergency relocation and the notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled in the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

62.14(3) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons, based on the resident's needs and determined and documented in the resident's record by the primary care provider;

b. The resident's social, emotional or physical well-being or that of other residents, as documented by the administrator or designee with specific information to support the determination that the resident's continued presence in the facility would adversely affect the resident's own well-being or that of other residents;

c. Due to action pursuant to Iowa Code chapter 229; or

d. Nonpayment for the resident's stay, as described in the admission agreement for the resident's stay. (I, II, III)

62.14(4) *Involuntary transfer or discharge—written notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or the resident's family or resident's legal representative. (II, III)

a. The notice shall contain all of the following information:

- (1) The stated reason for the proposed transfer or discharge. (II)
- (2) The effective date of the proposed transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. In emergency circumstances, provision may be made for extension of the 14-day requirement upon request to the department designee. If you lose the hearing, you will not be transferred before the expiration date of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or you may write to the department to the attention of: Administrator, Division of Health Facilities, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care

in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation “cc:” and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 62.14(4) “a” shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident’s health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident’s legal representative, and notification is given to the legal representative, the resident’s primary care provider, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility. (II)

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 62.14(6).

62.14(5) *Involuntary transfer or discharge—emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident’s file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads:

You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals within 7 days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department’s receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s legal representative, the resident’s primary care provider, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation “cc:” and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 62.14(6).

62.14(6) *Involuntary transfer or discharge—hearing.*

a. Request for hearing.

- (1) The resident must request a hearing within 7 days of receiving written notice.
- (2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department’s receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a

transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident and the resident's legal representative not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the resident's legal representative that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and resident's legal representative within 10 working days after the hearing has been concluded.

62.14(7) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

62.14(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's legal representative, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 62.14(5) and emergency notice is provided within 48 hours.

62.14(9) *Involuntary discharge or transfer—transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 62.14(9) "b" does not apply if the discharge has already occurred pursuant to subrule 62.14(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

62.14(10) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

This rule is intended to implement Iowa Code section 135C.14(8).

[ARC 1205C, IAB 12/11/13, effective 1/15/14; ARC 1752C, IAB 12/10/14, effective 1/14/15]

481—62.15(135C) Medication management.

62.15(1) Medications shall be prescribed on an individual basis by one who is authorized by Iowa law to prescribe. (I, II)

a. Medication orders shall be correctly implemented by qualified personnel. (II)

b. Qualified staff shall ensure that residents are able to take their own medication. (I, II)

c. Each physician order allowing a resident to take their own medications shall specify whether this self-medication shall be without supervision or under the supervision of qualified staff as defined in 62.15(2). (I, II)

62.15(2) Drug administration.

a. A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

b. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

c. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

d. Prior to taking a department-approved medication aide course, the individual shall have a letter of recommendation for admission to the medication aide course from the employing facility.

e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration.

f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph "d" of this subrule do not apply to this individual.

g. Unit dose medication shall remain in the identifiable unit dose package until given to the resident. (II)

h. Medications that are not contained in unit dose packaging shall be set up and administered by the same person and must be administered within one hour of preparation. (II)

i. The person administering medications must observe and check to make sure the resident swallows oral medications and must record the date, time, amount and name of each medication given. (II)

j. Injectable medications shall be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA).

k. Residents certified by their physician as capable of injecting their own insulin may do so. Insulin may be administered pursuant to "j" above or as otherwise authorized by the resident's physician. Authorization by the physician shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

(4) Include the name of the individual authorized to administer the insulin,

(5) Include documentation by the physician that the authorized person is qualified to administer insulin to that resident.

l. Current and accurate records must be kept on the receipt and disposition of all Schedule II drugs. (II, III)

62.15(3) For each resident who is taking medication with or without supervision there shall be documentation on the individual's record to include:

a. Name of resident, (II, III)

b. Name of drug, dose, and schedule, (II, III)

c. Method of administration, (II, III)

d. Drug allergies and adverse reactions, (I, II)

- e. Special precautions, (I, II)
- f. Documentation of resident's continuing ability to administer own medication. (I, II)

62.15(4) Medication counseling shall be provided for all residents in accordance with the IPP on an ongoing basis and as part of discharge planning unless contraindicated in writing by the physician with reasons and pursuant to 62.12(2) "c." (II, III)

Each resident shall be given verbal and written information about all medications the resident is currently using, including over-the-counter medications. A suggested reference is "USPDI, Advice for the Patient." (II, III)

The information shall include:

- a. Name, reason for, and amount of medication to be taken; (II)
- b. Time medication is to be taken and the reason that schedule was established; (II)
- c. Possible benefits, risks and side effects of each medication including over-the-counter medications; (II)
- d. The names of people in the community qualified to answer questions about medications. (II, III)
- e. A list of available resources or agencies which may assist the resident to obtain medication after discharge. (III)

62.15(5) Drug storage.

a. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedrooms. Individual locked storage shall be utilized. (II, III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

- (1) Adequate size cabinet with lock which can be used for storage of drugs, solutions, and prescriptions. A locked drug cart may be used. (II, III)
- (2) A bathroom shall not be used for drug storage. (II, III)
- (3) The drug storage cabinet shall be kept locked when not in use. (II, III)
- (4) The drug storage cabinet key shall be in the possession of the employee charged with the responsibility of administering medication. (III)

(5) Medications requiring refrigeration which are stored in a common refrigerator shall be kept in a locked box properly labeled, and separated from food and other items. (III)

(6) Drugs for external use shall be stored separately from drugs for internal use. External medications are those to be applied to the outside of the body and include but are not limited to salves, ointments, gels, pastes, soaps, baths, and lotions. Internal medications are those to be applied inside the body or ingested and include but are not limited to oral and injectable medications, eye drops, ear drops and suppositories. Also, eye drops and ear drops shall be separated from each other as well as from other internal and external medications. (II, III)

(7) All potent, poisonous, or caustic materials shall be stored in a separate room from the medications. (II, III)

(8) Inspection of the condition of stored drugs shall be made by the administrator and a licensed pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but need not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current order, and drugs improperly stored. (III)

(9) Double-locked storage of Schedule II drugs shall not be required under single unit package drug distribution systems in which the quantity stored does not exceed a seven-day supply and a missing dose can be readily detected but must be kept in a locked medication cabinet. Quantities in excess of a seven-day supply must be double-locked. (II)

- c. Bulk supplies of prescription drugs shall not be kept. (III)

62.15(6) Drug safeguards.

a. All labels on medications must be legible. If labels are not legible, the medication shall be sent back to the dispenser as defined in Iowa Code section 147.107 for relabeling. (II, III)

b. The medication for each resident shall be kept or stored in the original dispensed containers. (II, III)

c. The facility shall adopt policies and procedures for the destruction of unused prescription drugs for residents who have died. The policies and procedures shall include, but not be limited to, the following: (III)

(1) Drugs shall be destroyed by the person in charge in the presence of the administrator or the administrator's designee;

(2) Notation of the destruction shall be made in the resident's chart, with signatures of the persons involved in the destruction;

(3) The manner in which the drugs are disposed of shall be identified (i.e., incinerator, sewer, landfill). (II, III)

d. The facility shall also adopt policies and procedures for the disposal of controlled substances dispensed to residents whose administration has been discontinued by the prescriber. These policies and procedures shall include, but not be limited to, the following:

(1) Procedures for obtaining a release from the resident;

(2) The manner in which the drugs were destroyed and by whom, including witnesses to the destruction;

(3) Mechanisms for recording the destruction;

(4) Procedures to be used when the resident or the conservator or guardian refuses to grant permission for destruction. (II, III)

e. The facility shall adopt policies and procedures for the disposal of unused discontinued medication. The procedures shall include but not be limited to:

(1) A specified time after which medication must be destroyed, sent back to the dispenser or placed in long-term storage;

(2) Procedures for obtaining permission of the resident, or the conservator or guardian;

(3) Procedures to be used when the resident or conservator or guardian refuses to grant permission for disposal;

(4) Unused discontinued medication shall be locked and shall be separate from current medication. (II, III)

f. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The facility, in consultation with a physician or pharmacist serving the home, shall institute policies and provide procedures. These shall be provided to all prescribers and pharmacists serving the facility and conveniently located for personnel administering medications. (III)

g. Residents shall not keep any prescription medication in their possession unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. Over-the-counter medications may be maintained provided they are in a locked container and pursuant to subrule 62.16(5). (I, II)

h. No prescription drugs shall be administered to a resident without a written order signed by a person qualified to prescribe the medication and renewed quarterly. (II)

i. Prescription drugs shall be reordered only with the permission of the attending prescriber. (II, III)

j. No medications prescribed for one resident may be administered to or allowed in the possession of another. (II)

k. Residents on prescribed medication may maintain over-the-counter medication pursuant to 62.15(6) "g" unless contraindicated by the physician. The facility shall request this information from the physician and document in the resident's record. (II)

62.15(7) Each facility shall have policies and procedures established to govern the administration of prescribed medications to residents on leave from the facility. (III)

a. Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Non-child-resistant containers may be used. Each container may hold only one medication. A label on

each container shall indicate the date, the resident's name, the facility, the medication, its strength, dose, and time of administration.

b. Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

c. Medication distributed as above may be issued only by facility personnel responsible for administering medication.

62.15(8) Each RCF/PMI that administers controlled substances shall obtain annually a registration issued by the board of pharmacy pursuant to Iowa Code section 124.302(1). (III)

This rule is intended to implement Iowa Code section 135C.14.

[ARC 1050C, IAB 10/2/13, effective 11/6/13; ARC 2643C, IAB 8/3/16, effective 9/7/16; see Delay note at end of chapter]

481—62.16(135C) Resident property.

62.16(1) The admission of a resident does not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident's legal guardian. (II, III)

62.16(2) The admission of a resident shall not grant the RCF/PMI the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the resident's safety and for safe and orderly management of the residential care facility as required by these rules and in accordance with the IPP. (III)

62.16(3) An RCF/PMI shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

62.16(4) Resident's funds held by the RCF/PMI shall be in a trust account and kept separate from funds of the facility. (III)

62.16(5) No administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident or the resident's property, unless the resident is related to the person acting as guardian within the third degree of consanguinity. (III)

62.16(6) If a facility is a county care facility and upon the verified petition of the county board of supervisors, the district court may appoint the administrator of a county care facility as conservator or guardian or both of a resident of that county care facility without fee. The administrator may establish either separate or common bank accounts for cash funds of these residents. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—62.17(135C) Financial affairs. Each resident who has not been assigned a guardian or conservator by the court may manage the resident's personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

62.17(1) The facility shall maintain a written account of all the resident's funds received by or deposited with the facility. (II)

a. An employee shall be designated in writing to be responsible for resident accounts. (II)

b. The facility shall keep on deposit personal funds over which the resident has control.

c. If the resident requests these funds, they shall be given to the resident with a receipt maintained by the facility and a copy to the resident. If a conservator or guardian has been appointed for the resident, the conservator or guardian shall designate the method of disbursing the resident's funds. (II)

d. If the facility makes a financial transaction on a resident's behalf, the resident or the resident's legal guardian or conservator must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

e. A resident's personal funds shall not be used without the written consent of the resident or the resident's guardian. (II)

f. A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

62.17(2) Contracts. There shall be a written contract between the facility and each resident which meets the following requirements:

a. State the base rate or scale per day or per month, the services included, and the method of payment; (III)

b. Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate; (III)

c. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subrule 62.17(2); (III)

d. State the method of payment of additional charges; (III)

e. Contain an explanation of the method of assessment of additional charges and an explanation of the method of periodic reassessment, if any, resulting in charging the additional charges; (III)

f. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc. (III)

g. Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on the program assessment at the time of admission, which is determined in consultation with the administrator. (III)

h. Include the total fee to be charged initially to the specific resident. (III)

i. State the conditions whereby the facility may make adjustments to its overall fees for residential care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

(1) Written notification to the resident and responsible party, when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of changes; (III)

(2) Notification to the resident and payor when appropriate, of changes in additional charges based on a change in the resident's condition. Notification must occur prior to the date the revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

(3) State the terms of agreement in regard to refund of all advance payments, in the event of transfer, death, or voluntary or involuntary discharge. (III)

j. State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's legal representative.

(1) The facility shall ask the resident or legal representative if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

(2) The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

k. State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

l. State the conditions of voluntary discharge or transfer; (III)

m. Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

62.17(3) Each party shall receive a copy of the signed contract. (III)

This rule is intended to implement Iowa Code sections 135C.24 and 135C.23(1).

481—62.18(135C) Records.

62.18(1) Resident record. The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. (II) The record shall include:

- a. Name and previous address of resident; (III)
- b. Birth date, sex, and marital status of resident; (III)
- c. Church affiliation; (III)
- d. Physician's name, telephone number, and address; (III)
- e. Dentist's name, telephone number, and address; (III)
- f. Name, address and telephone number of next of kin or legal representative; (III)
- g. Name, address and telephone number of the person to be notified in case of emergency; (III)
- h. Funeral director, telephone number, and address; (III)
- i. Pharmacy name, telephone number, and address; (III)
- j. Results of evaluation pursuant to 62.11(135C); (III)
- k. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)
- l. Physician's orders for medication and treatments shall be in writing and signed by the physician quarterly; diet orders shall be renewed yearly; (III)
- m. A notation of yearly or other visits to physician or other professionals, all consultation reports and progress notes; (III)
- n. Any change in the resident's condition; (II, III)
- o. A notation describing the resident's condition on admission, transfer, and discharge; (III)
- p. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death; (III)
- q. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)
- r. Disposition of personal property; (III)
- s. Copy of IPP pursuant to 62.12(1); (III)
- t. Progress notes pursuant to 62.12(4) and 62.12(5). (III)

62.18(2) Confidentiality of resident records. The facility shall have policies and procedures providing that each resident shall be ensured confidential treatment of all information, including information contained in an automatic data bank. The resident's or the resident's legal guardian's written informed consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

A release of information form shall be used which includes to whom the information shall be released, the reason for the information being released, how the information is to be used, and the period of time for which the release is in effect. A third party, not requesting the release, shall witness the release of information form. (II)

a. The facility shall limit access to any resident records to staff and consultants providing professional service to the resident. Information shall be made available to staff only to the extent that the information is relevant to the staff person's responsibilities and duties. (II)

Only those personnel concerned with financial affairs of the residents may have access to the financial information. This is not meant to preclude access by representatives of state or federal regulatory agencies. (II)

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician or QMHP determines the disclosure of the record or section is contraindicated in which case this information will be deleted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident's record by the physician or qualified mental health professional in collaboration with the resident's interdisciplinary team. (II)

62.18(3) Incident records.

- a. Each RCF/PMI shall maintain an incident record report and shall have available incident report forms. (II, III)
- b. The report of every incident shall be in detail on a printed incident report form. (II, III)
- c. The person in charge at the time of the incident shall oversee the preparation and sign the report. (III)
- d. A copy of the incident report shall be kept on file in the facility available for review and a part of administrative records. (III)

62.18(4) Retention of records.

- a. Records shall be retained in the facility for five years following termination of services to the resident even when there is a change of ownership. (III)
- b. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—62.19(135C) Health and safety.

62.19(1) Physician. Each resident shall have a designated licensed physician who may be called when needed. (III)

62.19(2) Emergency care. The facility shall have written policies and procedures for emergency medical or psychiatric care to include:

- a. A written agreement with a hospital or psychiatric facility or documentation of attempt to obtain a written agreement for the timely admission of a resident who, in the opinion of the attending physician, requires inpatient services; (II, III)
- b. Provisions consistent with Iowa Code chapter 229; (II, III)
- c. Immediate notification by the person in charge to the physician or QMHP, as appropriate, of any accident, injury or adverse change in the resident's condition. (I, II)

62.19(3) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)

62.19(4) Infection control. Each facility shall have a written and implemented infection control program addressing the following:

- a. Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)
- b. Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)
- c. Dressings, soaks, or packs; (I, II, III)
- d. Infection identification; (I, II, III)
- e. Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)
- f. Sanitation techniques for resident care equipment; (I, II, III)
- g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)
- h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

62.19(5) Aseptic techniques. If a resident needs any of the treatment or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

a. Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

b. Urinary catheter, (I, II, III)

c. Respiratory suction, oxygen or humidification, (I, II, III)

d. Decubitus care, (I, II, III)

e. Tracheostomy, (I, II, III)

f. Nasogastric or gastrostomy tubes, (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

62.19(6) Dental services. Personnel shall assist residents to obtain regular and emergency dental services and provide necessary transportation. Dental services shall be performed only on the request of the resident or legal guardian. The resident's physician shall be advised of the resident's dental problems. (III)

62.19(7) Safe environment. The licensee of an RCF/PMI is responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II) The RCF/PMI shall meet the fire and safety rules and regulations as promulgated by the state fire marshal. (I, II)

62.19(8) Disaster. The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (II, III)

a. The plan shall be posted. (II, III)

b. Training shall be provided to ensure that all employees and residents are knowledgeable of the emergency plan. The training shall be documented. (II, III)

c. Residents shall be permitted to smoke only in posted areas where proper facilities are provided. Smoking by residents considered to be careless shall be prohibited except under direct supervision and in accordance with the IPP. (II, III)

62.19(9) Safety precautions. The facility shall take reasonable measures to ensure the safety of residents and shall involve the residents in learning the safe handling of household supplies and equipment in accordance with the policies and procedures established by the facility. (II)

a. All potent, poisonous, or caustic materials shall be plainly labeled and stored in a specific locked, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I, II)

b. Residents shall have access to storage areas for cleaning and laundry supplies as appropriate to the activities being performed unless contraindicated in their IPP. (I, II)

62.19(10) Hazards. Entrances, exits, steps, and outside steps and walkways shall be kept free from ice, snow, and other hazards. (II, III)

62.19(11) Laundry. All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

a. Except for related activities, the laundry room shall not be used for other purposes. (III)

b. Resident's personal laundry shall be marked with an identification unless the resident is responsible for doing the resident's own laundry as indicated in the individual program plan. (III)

c. There shall be an adequate supply of clean, stain-free linens so that each resident shall have at least three washcloths, hand towels, and bath towels. (III)

d. Each bed shall be provided with clean, stain-free, washable bedspreads and sufficient lightweight serviceable blankets. A complete change of bed linens shall be available for each bed. (III)

62.19(12) Supplies, equipment, and storage.

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. These may include: books (standard and large print), magazines, newspapers, radio, television, bulletin boards, board game, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, and outdoor equipment. Supplies and equipment shall be appropriate to the chronological age of the residents. (III)

b. Storage shall be provided for recreational equipment and supplies. (III)

This rule is intended to implement Iowa Code section 135C.14(1).

481—62.20(135C) Nutrition.

62.20(1) There shall be policies and procedures written and implemented for dietary staffing.

a. The person responsible for planning menus and monitoring the kitchens in each facility shall have completed training, approved by the department, in sanitation and food preparation. (III)

b. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)

c. There shall be written work schedules and time schedules covering each type of job in the food service department for facilities over 15 beds. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area. (III)

62.20(2) Nutrition and menu planning.

a. Residents shall be encouraged to the maximum extent possible to participate in meal planning, shopping, and in preparing and serving the meal and cleaning up. The facility shall be responsible for helping residents become knowledgeable of what constitutes a nutritionally adequate diet. (III)

b. Menus shall be planned and served to meet nutritional needs of residents in accordance with the physician's diet orders which shall be renewed yearly. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (II) Other foods shall be included to meet energy requirements (calories) to add to the total nutrients and variety of meals. (III)

c. At least three meals or their equivalent shall be made available to each resident daily, consistent with those times normally existing in the community. (II, III)

(1) There shall be no more than a 14-hour span between the substantial evening meal and breakfast. (III)

(2) To the extent medically possible, bedtime nourishments, containing a protein source, shall be offered routinely to all residents. Special nourishments shall be available when ordered by the physician. (II, III)

d. Menus shall include a variety of foods prepared in various ways. The same menus shall not be repeated on the same day of the following week. (III)

e. If modified diets are ordered by the physician, the person responsible for writing the menus shall have completed department-approved training in simple therapeutic diets and a copy of a modified diet manual approved by the department and written within the past five years shall be available in the facility. (II, III)

f. Therapeutic diets shall be served accurately. (II)

g. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing, and serving food. (III)

h. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

i. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

62.20(3) Dietary storage, food preparation, service.

a. The use of foods from salvaged, damaged, or unlabeled containers is prohibited. (II, III)

b. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (II, III)

c. Canning of food is prohibited. The facility may freeze fruits, vegetables, and meats provided strict sanitary procedures are followed and in accordance with recommendations in the "Food Service Manual" revised 1976, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C. (II)

d. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a three-day period shall be maintained on the premises. (III)

e. If family-style service is used, all leftover prepared food that has been on the table shall be safely handled. (III)

f. Poisonous compounds shall not be kept in food storage or preparation areas except for a sanitizing agent which shall be kept in a locked cabinet. (II, III)

62.20(4) Sanitation in food preparation area.

a. The facility shall develop and implement policies and procedures to address sanitation, meal preparation and service in accordance with recommendations in the food service sanitation manual pursuant to 62.20(2) “c,” and which shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with the department’s food service and sanitation rules. (III)

b. Residents shall be allowed in the food preparation area in accordance with their IPP. (III)

c. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

d. All appliances and work areas shall be kept clean and sanitized. (III)

e. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds and a schedule of duties to be performed daily shall be posted in each food area. (III)

f. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff in facilities over 15 beds. (III)

g. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)

h. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

62.20(5) Hygiene of food service personnel.

a. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. (II, III)

b. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area in facilities over 15 beds. (III)

c. Hairnets shall be worn by all food service personnel in facilities over 15 beds and effective hair restraints in facilities less than 15 beds. (III)

d. Persons handling food shall use correct hand-washing and food-handling techniques as identified in the food service sanitation manual. (III)

e. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.21(135C) Physical facilities and maintenance.

62.21(1) Housekeeping. The facility shall have written procedures for daily and weekly cleaning (III) to include but need not be limited to:

a. All rooms including furnishings, all corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment or accumulations of refuse. (III)

b. All resident bedrooms, including furnishings, shall be cleaned and sanitized before use by another resident. (III)

c. Polishes used on floors shall provide a slip-resistant finish. (III)

62.21(2) Equipment. Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

a. All facilities shall be provided with clean and sanitary storage for cleaning equipment, supplies, and utensils. In facilities over 15 beds a janitor’s closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor’s sink for emptying scrub pails. A hallway or corridor shall not be used for storage of equipment. (III)

b. Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

c. All containers for trash shall be watertight, rodent-proof, and have tight-fitting covers and shall be thoroughly cleaned each time a container is emptied. (III)

d. All wastes shall be properly disposed of in compliance with the local ordinances and state codes. (III)

62.21(3) Bedrooms.

a. Each resident shall be provided with a bed, substantially constructed and in good repair. Roll-away beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately 5 inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident's personal wishes shall be considered and documented. (III)

d. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

e. There shall be a bedside table with a drawer and a reading lamp for each resident.

f. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)

g. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere and in a manner which is age and culture appropriate. (III)

h. Upholstery materials shall be moisture- and soil-resistant, except on furniture which is provided by the resident and is the property of the resident. (III)

i. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

j. Beds shall not be placed with the side of the bed against a radiator or in close proximity to it unless the radiator is covered to protect the resident from contact with it or from excessive heat. (III)

62.21(4) Bath and toilet facilities. All lavatories shall have nonreusable towels and an available supply of soap. (III)

62.21(5) Dining and living rooms.

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to allow social, diversional, individual, and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 481—subrule 60.6(2) are met. (III)

e. Living rooms shall be suitably furnished and maintained for the use of residents and their visitors and may be used for recreational activities. (III)

f. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

62.21(6) Family and employee accommodations.

a. The residents' bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

b. In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower is the minimum requirement. (III)

c. In all health care facilities, if the family or employees live within the facility, living quarters shall be required for the family or employees separate from areas provided for residents. (III)

62.21(7) Animals. Animals shall be allowed within the facility with written approval of the department and under controlled conditions. (III)

62.21(8) Maintenance. Each facility shall establish a maintenance program to ensure continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities over 15 beds, this program shall be in writing and be available for review by the department. (III)

a. The buildings, furnishing, and grounds shall be maintained in a clean, orderly condition and be in good repair. (III)

b. The buildings and grounds shall be kept free of flies, other insects, rodents, and their breeding areas. (III)

62.21(9) Buildings, furnishings, and equipment.

a. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per employee on duty from 6 p.m. to 6 a.m. (III)

b. All windows shall be supplied with curtains and shades or drapes which are kept in good repair. (III)

c. Wherever glass sliding doors or transparent panels are used, they shall be marked conspicuously and decoratively. (III)

62.21(10) Water supply. Every facility shall have an adequate water supply from an approved source. A municipal source of water shall be considered as meeting this requirement. (III) Private sources of water to a facility shall be tested annually and the report submitted with the annual application for license. (III)

a. A bacterially unsafe source of water shall be grounds for denial, suspension, or revocation of license. (III)

b. The department may require testing of private sources of water to a facility at its discretion in addition to the annual test. The facility shall supply reports of tests as directed by the department. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.22(135C) Care review committee. Rescinded **ARC 1205C**, IAB 12/11/13, effective 1/15/14.

481—62.23(135C) Residents' rights in general.

62.23(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions subrules (62.23(2) to 62.23(22)) and which govern all areas of service provided to staff, residents, their families or legal representatives and shall be available to the public and shall be reviewed annually. (II)

62.23(2) Grievances. Written policies and procedures shall include a method for submitting grievances and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. The written procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

a. An employee or an alternate designated to be responsible for handling grievances and recommendations; (II) and

b. Methods to investigate and assess the validity of a grievance or recommendation, resolve grievances, and take action. (II)

62.23(3) Informed of rights. Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies and be posted in locations accessible to all residents. (II)

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from residents. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Resident's rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are not English-speaking or are deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident and legal guardian, if applicable, indicating an understanding of these rights and responsibilities, and the statement shall be maintained in the record.

The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or legal guardian. (II)

d. All residents, next of kin, or legal guardian shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be used to inform non-English-speaking, deaf or blind residents of changes. (II)

62.23(4) Informed of health condition. Each resident or legal guardian shall be fully informed by a physician of the resident's health and medical condition unless medically contraindicated as documented by a physician in the resident's record. (II)

62.23(5) Research. The resident or legal guardian shall make the decision as whether to participate in experimental research and then only upon written informed consent. (II, III)

Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirement of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46). (III)

62.23(6) Resident work. Services performed by the resident for the facility shall be in accordance with the IPP. (II)

a. Residents shall not be used to provide a source of labor for the facility against the resident's will. Physician's approval is required for all work programs and must be renewed yearly. (II, III)

b. If the individual program plan requires activities for therapeutic or training reasons, the plan for these activities must be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time-limited and reviewed at least quarterly. (II)

c. A resident engaged in work programs in the RCF/PMI shall be paid wages commensurate with wage and hour regulations for comparable work and productivity. (II)

d. The resident shall have the right to employment options commensurate with training and skills. (II)

62.23(7) Residents performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

62.23(8) Encouragement to exercise rights. Each resident shall be encouraged and assisted throughout the resident's period of stay, to exercise resident and citizen rights and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

62.23(9) Posting of names. The facility shall post in a prominent area the name, telephone number, and address of the survey agency, the local law enforcement agency and the protection and advocacy agency designated pursuant to Iowa Code section 135C.2(4) and the text of Iowa Code section 135C.46 to provide to residents another course of redress. (II)

62.23(10) Dignity preserved. Each resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care of personal needs. (II)

a. Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of the individuality and dignity of human beings. (II)

b. Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping, eating, and times to retire at night and arise in the morning shall be elicited and considered by the facility. The facility shall make every effort to match nonsmokers with other nonsmokers. (II)

c. Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

d. Privacy for each person shall be maintained when residents are being taken to the toilet or being bathed and while they are being helped with other types of personal hygiene, except as needed for resident safety or assistance. (II)

e. Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This does not apply under emergency conditions. (II)

62.23(11) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents. Each resident may send and receive personal mail unopened unless prohibited in the IPP which has explicit approval of the resident or legal guardian. (II)

62.23(12) Visiting hours. Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

a. Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

- (1) The resident refuses to see the visitor(s). (II)
- (2) The visit would not be in accordance with the IPP. (II)
- (3) The visitor's behavior is unreasonably disruptive to the functioning of the facility.

Reasons for denial of visitation shall be documented in the resident's records. (II)

b. Decisions to restrict a visitor are reevaluated at least quarterly by the QMHP or at the resident's request. (II)

62.23(13) Privacy. Space shall be provided for residents to receive visitors in comfort and privacy. (II)

62.23(14) Telephone calls. Telephones consistent with ANSI standards 42 CFR 405.1134(c) (10-1-86) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

62.23(15) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

62.23(16) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, QMHP, or facility administrator for refusing permission. (II)

62.23(17) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules; however, residents shall be encouraged to participate in recreational programs. (II)

62.23(18) Resident activities. Each resident may participate in activities of social, religious, and community groups as desired unless contraindicated for reasons documented by the attending physician or qualified mental health professional, as appropriate, in the resident's record. (II)

Residents who wish to meet with or participate in activities of social, religious or community groups in or outside the facility shall be informed, encouraged, and assisted to do so. (II)

62.23(19) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided use is not otherwise prohibited in these rules. (II)

a. Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a secure location which is convenient to the resident. (II)

b. Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry. (II)

c. Any personal clothing or possessions retained by the facility for the resident shall be identified and recorded on admission and the record placed on the resident's chart. The facility shall be responsible for secure storage of items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

d. A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

e. A resident's personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident's guardian. The department may report findings that a resident's property has been used without written consent to the local law enforcement agency, as appropriate. (II)

62.23(20) Sharing rooms. Residents, including spouses staying in the same facility, shall be permitted to share a room, if available, if requested by both parties, unless contraindicated in the IPP and when the reasons for denial are documented in the resident's record. (II)

62.23(21) Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician and a pharmacy. The facility may require the pharmacy selected to use a drug distribution system compatible with the system currently used by the facility. (II)

62.23(22) Incompetent residents.

a. Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's legal guardian when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This paragraph is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

b. The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the legal guardian, if any, and acquire a statement indicating an understanding of resident's rights. (II)

62.23(23) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from physical, sexual, mental and verbal abuse, exploitation, neglect, and physical injury. (I, II)

62.23(24) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

62.23(25) Rescinded IAB 12/11/13, effective 1/15/14.

This rule is intended to implement Iowa Code sections 135C.14 and 135C.24 and Iowa Code chapter 235E.

[ARC 1205C, IAB 12/11/13, effective 1/15/14; ARC 1204C, IAB 12/11/13, effective 1/15/14]

481—62.24(135C) County care facilities. In addition to Chapter 62 licensing rules, county care facilities licensed as residential care facilities for persons with mental illness must also comply with department of human services rules, 441—Chapter 37. Violation of any standard established by the department of human services is a class II violation pursuant to 481—56.2(135C).

This rule is intended to implement Iowa Code section 227.4.

481—62.25(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “j” of this rule. (I, II, III)

62.25(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

- a.* Health and safety risks for residents;
- b.* Compatibility of the proposed business or activity with the facility program;
- c.* Noise created by the proposed business or activity;
- d.* Odors created by the proposed business or activity;
- e.* Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

- f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- g. Proposed staffing for the business or activity;
- h. Sharing of services and staff between the proposed business or activity and the facility;
- i. Facility layout and design; and
- j. Parking area utilized by the business or activity.

62.25(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

62.25(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

This rule will become effective July 1, 1992.

481—62.26(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

62.26(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

62.26(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

62.26(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

62.26(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 135C.2(6), 135C.4, 135C.6(1) to 135C.6(3), 135C.7, 135C.8, 135C.14, 135C.16(2), 135C.23 to 135C.25, 135C.31, 135C.36, and 227.4.

[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]

[Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]

[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]

[Filed 12/9/88, Notices 8/24/88, 10/5/88—published 12/28/88, effective 2/1/89]

[Filed 4/14/89, Notice 2/8/89—published 5/3/89, effective 6/7/89]

[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]

[Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]

[Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]

[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]

[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]

[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]

[Filed 1/15/93, Notice 11/25/92—published 2/3/93, effective 3/10/93]

[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]

[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]

[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]

[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]

[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]

[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]

[Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
[Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1752C (Notice ARC 1648C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]
[Filed ARC 2643C (Notice ARC 2395C, IAB 2/3/16), IAB 8/3/16, effective 9/7/16]¹

¹ September 7, 2016, effective date of 57.19(3)“d,” 62.15(2)“d,” and 63.18(3)“d” [ARC 2643C] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 5, 2016.

CHAPTER 63
RESIDENTIAL CARE FACILITIES FOR THE
INTELLECTUALLY DISABLED
[Prior to 7/15/87, Health Department[470] Ch 63]

481—63.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules. The use of the words “shall” and “must” indicate those standards are mandatory. The use of the words “should” and “could” indicate those standards are recommended.

“*Accommodation*” means the provision of lodging, including sleeping, dining, and living areas.

“*Administrator*” means a person who administers, manages, supervises, and is in general administrative charge of a residential care facility for the intellectually disabled, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

“*Alcoholic*” means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in Iowa Code section 125.2.

“*Ambulatory*” means a person who immediately and without aid of another, is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“*Basement*” means that part of a building where the finish floor is more than 30 inches below the finish grade.

“*Board*” means the regular provision of meals.

“*Communicable disease*” means a disease caused by the presence of virus or microbial agents within a person’s body, which agents may be transmitted either directly or indirectly to other persons.

“*Department*” means the state department of inspections and appeals.

“*Distinct part*” means a clearly identifiable area or section within a residential care facility for the intellectually disabled, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

“*Drug addiction*” means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in Iowa Code chapter 124.

“*Interdisciplinary team*” means persons drawn from, or representing such of the professions, disciplines, or services required for the care of the resident.

“*Medication*” means any drug including over-the-counter substances ordered and administered under the direction of the physician.

“*Nonambulatory*” means a person who immediately and without the aid of another is not physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“*Personal care*” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

“*Primary care provider*” means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“*Program of care*” means all services being provided for a resident in a health care facility.

“*Qualified intellectual disabilities professional*” means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and having one year’s experience working with the intellectually disabled.

“*Rate*” means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these regulations.

“Responsible party” means the person who signs or cosigns the admission agreement required in 481—63.14(135C) or the resident’s guardian or conservator if one has been appointed. In the event that a resident has neither a guardian, conservator nor person who signed or cosigned the resident’s admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of social services, Veterans Administration, religious groups, fraternal organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

“Restraints” means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.

[ARC 0765C, IAB 5/29/13, effective 7/3/13; ARC 1752C, IAB 12/10/14, effective 1/14/15]

481—63.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual residential care facility for the intellectually disabled. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

63.2(1) To request a variance, the licensee must:

- a. Apply for variance in writing, on a form provided by the department;
- b. Cite the rule or rules from which a variance is desired;
- c. State why compliance with the rule or rules cannot be accomplished;
- d. Explain alternate arrangement or compensating circumstances which justify the variance;
- e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

63.2(2) Upon receipt of a request for variance, the director of the department of inspections and appeals will:

- a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
- b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;
- c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
- d. Consult with the applicant if additional information is required.

63.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.3(135C) Application for licensure.

63.3(1) Initial application and licensing. In order to obtain an initial residential care facility for the intellectually disabled license for a residential care facility for the intellectually disabled which is currently licensed, the applicant must:

- a. Meet all of the rules, regulations, and standards contained in 481—Chapters 60 and 63;
- b. Submit a letter of intent and a written résumé of the resident care program and other services provided which reflect the services indicated in individualized programs of care for each resident for departmental review and approval;
- c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;
- d. Submit a floor plan of each floor of the facility drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which each room will be put and window and door location;
- e. Submit a photograph of the front and side elevation of the facility;
- f. Submit the statutory fee for a residential care facility for the intellectually disabled for which licensure application is made;
- g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

63.3(2) In order for a facility not currently licensed as a residential care facility for the intellectually disabled to obtain an initial license as a residential care facility for the intellectually disabled, the applicant must:

a. Meet all of the rules, regulations, and standards contained in 481—Chapters 60 and 63 (exceptions noted in 60.3(2) shall not apply);

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

c. Make application at least 30 days prior to the proposed opening date of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the residential care facility for the intellectually disabled, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which the room will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the residential care facility for the intellectually disabled;

f. Submit the statutory fee for a residential care facility for the intellectually disabled;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

63.3(3) Renewal application. In order to obtain a renewal of the residential care facility for the intellectually disabled license, the applicant must:

a. Submit the completed application form 30 days prior to annual license renewal date of residential care facility for the intellectually disabled license;

b. Submit the statutory license fee for a residential care facility for the intellectually disabled with the application for renewal;

c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations;

d. Submit appropriate changes in the résumé to reflect any changes in the resident care program and other services.

63.3(4) Deemed status.

a. The department shall recognize, in lieu of its own inspection, the comparable inspection and inspection findings of the Accreditation Council for Service for Mentally Retarded and Other Developmentally Disabled Persons (AC—MR/DD), if the department is given copies of all requested materials relating to the comparable inspection process, is notified of the scheduled comparable inspection not less than 30 days in advance of the inspection, and is given the opportunity to monitor the comparable inspection. The department may verify the findings of 10 percent of the comparable inspections, selected annually on a random basis, in order to ensure compliance with minimum residential care standards established pursuant to this chapter.

b. The above accreditation will be accepted in lieu of the department's yearly licensure inspection for each year of the AC—MR/DD accreditation period up to two years.

63.3(5) Licenses are issued to the person or governmental unit which has responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations.

The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

This rule is intended to implement Iowa Code sections 135C.6(1) and 135C.9.
[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.4(135C) General requirements.

63.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

63.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

63.4(3) The posted license shall accurately reflect the current status of the residential care facility for the intellectually disabled. (III)

63.4(4) Licenses expire one year after the date of issuance, or as indicated on the license.

63.4(5) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.5(135C) Notifications required by the department. The department shall be notified:

63.5(1) Within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

63.5(2) Of any proposed change in the residential care facility for the intellectually disabled's functional operation or addition or deletion of required services; (III)

63.5(3) Thirty days before addition, alteration, or new construction is begun in the residential care facility for the intellectually disabled, or on the premises; (III)

63.5(4) Thirty days in advance of closure of the residential care facility for the intellectually disabled; (III)

63.5(5) Within two weeks of any change in administrator; (III)

63.5(6) When any change in the category of license is sought; (III)

63.5(7) Prior to the purchase, transfer, assignment, or lease of a residential care facility for the intellectually disabled, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's residential care facility for the intellectually disabled to the named prospective purchaser, transferee, assignee, or lessee; (III)

63.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a residential care facility for the intellectually disabled, the department shall upon request, send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.6(135C) Witness fees. Rescinded IAB 3/30/94, effective 5/4/94. See 481—subrule 50.6(4).

481—63.7(135C) Licenses for distinct parts.

63.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

63.7(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;

c. A distinct part must be operationally and financially feasible;

d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

481—63.8(135C) Administrator. Each residential care facility for the intellectually disabled shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these regulations. (III)

63.8(1) The administrator shall be at least 18 years of age and shall have a high school diploma or equivalent. (III) In addition this person shall meet at least one of the following conditions:

a. Be a licensed nursing home administrator who is also a qualified intellectual disabilities professional; (III) or

b. Be a qualified intellectual disabilities professional with at least one year of experience in an administrative capacity in a health care facility; (III) or

c. Have completed a one-year educational training program approved by the department for residential care facility for the intellectually disabled. (III)

63.8(2) The administrator may act as an administrator for not more than two residential care facilities for the intellectually disabled. (II)

a. The distance between the two facilities shall be no greater than 50 miles. (II)

b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)

c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

63.8(3) The licensee may be the approved administrator providing the licensee meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

63.8(4) A provisional administrator may be appointed on a temporary basis by the residential care facility for the intellectually disabled licensee to assume the administrative responsibilities for a residential care facility for the intellectually disabled for a period not to exceed six months when, through no fault of its own, the home has lost its administrator and has not been able to replace the administrator, provided the department has been notified prior to the date of the administrator's appointment. (III)

63.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

a. Be knowledgeable of the operation of the facility; (III)

b. Have access to records concerned with the operation of the facility; (III)

c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

d. Be at least 18 years of age; (III)

e. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

f. Have had training to carry out assignments and take care of emergencies and sudden illnesses of residents. (III)

63.8(6) The licensee shall:

a. Assume the responsibility for the overall operation of the residential care facility for the intellectually disabled; (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)

c. Establish written policies, which shall be available for review, for the operation of the residential care facility for the intellectually disabled. (III)

63.8(7) The administrator shall:

a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)

- b.* Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)
 - c.* Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)
 - d.* Make available the residential care facility for the intellectually disabled payroll records for departmental review as needed. (III)
- [ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.9(135C) General policies.

63.9(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work, and attendance at educational programs. (III)

63.9(2) There shall be a written job description developed for each category of worker in facilities. The job description shall include title of job, job summary, age range, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

63.9(3) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

- a.* Employees shall have a physical examination before employment. (I, II, III)
- b.* Employees shall have a physical examination at least every four years. (I, II, III)
- c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

63.9(4) Health certificates for all employees shall be available for review. (III)

63.9(5) Rescinded IAB 10/19/88, effective 11/23/88.

63.9(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency. (III)

63.9(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

63.9(8) The residential care facility for the intellectually disabled shall have established policies concerning the control, investigation, and prevention of infections within the facility. (III)

63.9(9) Each facility licensed as a residential care facility for the intellectually disabled shall provide an organized continuous 24-hour program of care commensurate with the needs of the residents of the home and under the direction of an administrator whose combined training and supervisory experience is such as to ensure adequate and competent care. (III)

63.9(10) Each facility shall have a written and implemented infection control program addressing the following:

- a.* Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)
- b.* Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)
- c.* Dressings, soaks, or packs; (I, II, III)
- d.* Infection identification; (I, II, III)
- e.* Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)
- f.* Sanitation techniques for resident care equipment; (I, II, III)
- g.* Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)
- h.* Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

63.9(11) Aseptic techniques. If a resident needs any of the treatments or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

a. Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

b. Urinary catheter, (I, II, III)

c. Respiratory suction, oxygen or humidification, (I, II, III)

d. Decubitus care, (I, II, III)

e. Tracheostomy, (I, II, III)

f. Nasogastric or gastrostomy tubes, (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

63.9(12) Prior to the removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease. (III)

[ARC 0663C, IAB 4/3/13, effective 5/8/13; ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.10 Rescinded, effective 7/14/82.

481—63.11(135C) Personnel.

63.11(1) *General qualifications.*

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a residential care facility for the intellectually disabled. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a residential care facility for the intellectually disabled. (II)

c. No person shall be allowed to provide services in a facility if the person has a disease:

(1) Which is transmissible through required workplace contact, (I, II, III)

(2) Which presents a significant risk of infecting others, (I, II, III)

(3) Which presents a substantial possibility of harming others, and (I, II, III)

(4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

Refer to Guidelines for Infection Control in Hospital Personnel, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).

d. Reserved.

e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)

63.11(2) *Supervision and staffing.*

a. The department shall establish on an individual facility basis the numbers and qualifications of the staff required in a residential care facility for the intellectually disabled, using as its criteria the services being offered as indicated on the résumé program of care and, as required for individual care plans, the needs of the resident. (II, III)

b. Personnel in a residential care facility for the intellectually disabled shall provide 24-hour coverage for residential care services for the intellectually disabled. Personnel shall be up and dressed at all times in facilities with more than 15 beds. In facilities with 15 or fewer beds, personnel shall be up and dressed when residents are awake. (II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (II, III)

d. Physician's orders shall be implemented by qualified personnel. (II, III)

63.11(3) *Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.* The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13; ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—63.12(135C) Resident care and personal services.

63.12(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

63.12(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II, III)

63.12(3) Residents shall have clean clothing as needed to present a neat appearance, be free of odors, and to be comfortable. Clothing shall be appropriate to their activities and to the weather. (III)

63.12(4) Rescinded, effective 7/14/82.

63.12(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

63.12(6) Residents shall not be required to pass through another's bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

63.12(7) Rescinded, effective 7/14/82.

63.12(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C. (II, III)

63.12(9) Residents shall be required to bathe at least twice a week. (II, III)

481—63.13(135C) Admission, transfer, and discharge.

63.13(1) *General admission policies.*

a. No resident who is in need of greater services than the facility can provide shall be admitted or retained in a residential care facility for the intellectually disabled. (II, III)

b. No residential care facility for the intellectually disabled shall admit more residents than the number of beds for which it is licensed. (II, III)

c. There shall be no more beds erected than is stipulated on the license. (II, III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II, III)

e. The admission of a resident to a residential care facility for the intellectually disabled shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident's legal representative. (III)

f. The admission of a resident shall not grant the residential care facility for the intellectually disabled the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the residential care facility for the intellectually disabled as required by these rules. (III)

g. A residential care facility for the intellectually disabled shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

h. Rescinded, effective 7/14/82.

i. Funds or properties received by the residential care facility for the intellectually disabled, belonging to or due a resident, expendable for the resident's account, shall be trust funds. (III)

j. Infants and children under the age of 16 shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or

applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

k. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property, unless such resident is related to the person acting as guardian within the third degree of consanguinity. (III)

l. Upon the verified petition of the county board of supervisors, the district court may appoint the administrator of a county care facility as conservator or guardian or both of a resident of such county care facility. Such administrator shall serve as conservator or guardian or both without fee. The administrator may establish either separate or common bank accounts for cash funds of such resident wards. (III)

63.13(2) Discharge or transfer.

a. Prior notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the residential care facility for the intellectually disabled for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such transfer or discharge. (II, III)

d. Advance notification by telephone will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 63.17(1) of these rules will accompany the resident. (II, III)

f. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II, III) [ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.14(135C) Contracts. Each party shall receive a copy of the signed contract. Each contract for residents shall:

63.14(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

63.14(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subrule 63.14(2); (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc. (III)

63.14(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on a preadmission evaluation assessment which is determined in consultation with the administrator; (III)

63.14(4) Include the total fee to be charged initially to the resident; (III)

63.14(5) State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident or responsible party, when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to effective date of such changes; (III)

b. Notification to the resident or responsible party, when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also

be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

63.14(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)

63.14(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party:

a. The facility shall ask the resident or responsible party if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented; (II)

b. The facility shall reserve the bed when requested for as long as the resident can ensure payment in accordance with the contract; (II)

63.14(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

63.14(9) State the conditions of voluntary discharge or transfer; (III)

63.14(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (III)

481—63.15(135C) Physical examinations.

63.15(1) Each resident in a residential care facility for the intellectually disabled shall have a designated licensed physician, who may be called when needed. (III)

63.15(2) Each resident admitted to a residential care facility for the intellectually disabled shall have had a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (II, III)

63.15(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II, III)

63.15(4) Rescinded, effective 7/14/82.

63.15(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident's condition. (I, II, III)

63.15(6) Each resident shall be visited by or shall visit the resident's physician at least annually. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility for the intellectually disabled may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

63.15(7) Residents shall be admitted to a residential care facility for the intellectually disabled only on a written order signed by a physician certifying that the individual being admitted requires no more than personal care and supervision but does not require nursing care. (III)

This rule is intended to implement Iowa Code section 135C.23(2).

[ARC 0663C, IAB 4/3/13, effective 5/8/13; ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.16(135C) Dental services.

63.16(1) The residential care facility for the intellectually disabled personnel shall assist residents to obtain regular and emergency dental services. (III)

63.16(2) Transportation arrangements shall be made when necessary for the resident to be transported to the dentist's office. (III)

63.16(3) Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident's physician shall be advised of the resident's dental problems. (III)

63.16(4) All dental reports or progress notes shall be included in the clinical record. (III)

63.16(5) Personal care staff shall assist the resident in carrying out dentist's recommendations. (III)

63.16(6) Dentists shall be asked to participate in the in-service program of the facility. (III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.17(135C) Records.

63.17(1) *Resident record.* The licensee shall keep a permanent record on all residents admitted to a residential care facility for the intellectually disabled with all entries current, dated, and signed. (III)
The record shall include:

- a. Name and previous address of resident; (III)
 - b. Birth date, sex, and marital status of resident; (III)
 - c. Church affiliation; (III)
 - d. Physician's name, telephone number, and address; (III)
 - e. Dentist's name, telephone number, and address; (III)
 - f. Name, address, and telephone number of next of kin or legal representative; (III)
 - g. Name, address, and telephone number of person to be notified in case of emergency; (III)
 - h. Mortician's name, telephone number, and address; (III)
 - i. Pharmacist's name, telephone number, and address; (III)
 - j. Physical examination and medical history; (III)
 - k. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)
 - l. Physician's orders for medication, treatment, and diet in writing and signed by the physician; (III)
 - m. A notation of yearly or other visits to physician or other professional services; (III)
 - n. Any change in the resident's condition; (II, III)
 - o. If the physician has certified that the resident is capable of taking prescribed medications, the resident shall be required to keep the administrator advised of current medications, treatments, and diet. The administrator shall keep a listing of medication, treatments, and diet prescribed by the physician for each resident; (III)
 - p. If the physician has certified that the resident is not capable of taking prescribed medication, it must be administered by a qualified person of the facility. A qualified person shall be defined as either a registered or licensed practical nurse or an individual who has completed the state-approved training course in medication administration; (II)
 - q. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication; (II, III)
 - r. A notation describing condition on admission, transfer, and discharge; (III)
 - s. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death; (III)
 - t. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)
 - u. Disposition of valuables. (III)
- 63.17(2)** *Incident record.*
- a. Each residential care facility for the intellectually disabled shall maintain an incident record report and shall have available incident report forms. (III)
 - b. Report of incidents shall be in detail on a printed incident report form. (III)

c. The person in charge at the time of the incident shall oversee the preparation and sign the incident report. (III)

d. The report shall cover all accidents where there is apparent injury or where hidden injury may have occurred. (III)

e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)

f. A copy of the incident report shall be kept on file in the facility. (III)

63.17(3) Retention of records.

a. Records shall be retained in the facility for five years following termination of services. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. Rescinded, effective 7/14/82.

d. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician. (III)

63.17(4) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

63.17(5) Personnel record.

a. An employment record shall be kept for each employee consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)
[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.18(135C) Drugs.

63.18(1) Drug storage.

a. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom but locked storage must be provided. (III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) A cabinet with a lock shall be provided which can be used for storage of drugs, solutions, and prescriptions; (III)

(2) A bathroom shall not be used for drug storage; (III)

(3) The drug storage cabinet shall be kept locked; (III)

(4) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked medication cabinet; (II)

(5) The medicine cabinet key shall be in the possession of the employee charged with the responsibility of administering medications; (II, III)

(6) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items; (III)

(7) Drugs for external use shall be stored separately from drugs for internal use; (III)

(8) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons; (I, II)

(9) The drug cabinet shall have a work counter, both the counter and cabinet shall be well-lighted; (III)

(10) Running water shall be available in the room in which the medicine cabinet is located or in an adjacent room; (III)

(11) Inspection of drug storage condition shall be made by the administrator and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not

be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician's order, and drugs improperly stored. (III)

c. Bulk supplies of prescription drugs shall not be kept in a residential care facility for the intellectually disabled unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

63.18(2) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Where unit dose is used, prescribed medications shall, as a minimum, indicate the resident's full name, physician's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (III)

b. Medication containers having soiled, damaged, illegible or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. The medications of each resident shall be kept or stored in the originally received containers. (II, III)

d. When a resident is discharged or leaves the facility, the unused prescription shall be sent with the resident or with a legal representative only upon the written order of a physician. (III)

e. Unused prescription drugs prescribed for residents who have died shall be destroyed by the person in charge with a witness and notation made on the resident's record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the attending physician. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

h. Instructions shall be requested of the Iowa board of pharmacy examiners concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

i. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident's current medications. Discontinued drugs shall be destroyed by the responsible person with a witness and notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy examiners. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The personal physician of the resident, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to keep in the resident's possession any medications unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

m. Each facility shall establish a policy cooperating with a licensed pharmacist to govern distributing prescribed medication to residents who are on leave from a facility. (III)

(1) Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Notwithstanding the prohibition against paper envelopes in 63.18(2) "a," non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident's name, the facility, the medication, its strength, dose, and time of administration.

(2) Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

(3) Medication distributed as above may be issued only by facility personnel responsible for administering medication.

63.18(3) *Drug administration.*

a. A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

b. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

c. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

d. Prior to taking a department-approved medication aide course, the individual shall have a letter of recommendation for admission to the medication aide course from the employing facility.

e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration.

f. In an RCF/ID facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.

g. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph "d" of this subrule do not apply to this individual.

h. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) In facilities where the unit dose system is used, the person assigned the responsibility must complete the procedure by observing the actual act of swallowing the medication and charting the medication. Medications shall be prepared on the same shift of the same day they are administered, (II) unless the unit dose system is used.

i. Injectable medications shall be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA).

j. Residents certified by their physician as capable of injecting their own insulin may do so. Insulin may be administered pursuant to "i" above or as otherwise authorized by the resident's physician. Authorization by the physician shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

(4) Include the name of the individual authorized to administer the insulin,

(5) Include documentation by the physician that the authorized person is qualified to administer insulin to that resident.

k. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13; ARC 1050C, IAB 10/2/13, effective 11/6/13; ARC 2643C, IAB 8/3/16, effective 9/7/16; see Delay note at end of chapter]

481—63.19(135C) Dietary.

63.19(1) *Dietary staffing.*

a. In facilities licensed for over 15 beds, persons in charge of meal planning and food preparation shall complete the home study course on sanitation and food preparation offered by the department. (III)

b. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)

c. There shall be written work schedules and time schedules covering each type of job in the food service department. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area in facilities over 15 beds. (III)

63.19(2) Nutrition and menu planning.

a. Menus shall be planned and followed to meet nutritional needs of residents in accordance with the physician's orders. (II)

b. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the food and nutrition board of the National Research Council, National Academy of Sciences. (II) Recommended daily dietary allowances are:

(1) Milk—two or more cups served as beverage or used in cooking;

(2) Meat group—two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;

(3) Vegetable and fruit group—four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;

(4) Bread and cereal group—four or more servings of whole-grain, enriched or restored;

(5) Foods other than those listed will usually be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

c. At least three meals or their equivalent shall be served daily, at regular hours. (II)

(1) There shall be no more than a 14-hour span between substantial evening meal and breakfast. (II, III)

(2) To the extent medically possible, bedtime nourishments shall be offered routinely to all residents. Special nourishments shall be available when ordered by physician. (II, III)

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing, and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

63.19(3) Dietary storage, food preparation, and service.

a. All food and drink shall be clean, wholesome, free from spoilage, and safe for human consumption. (II, III)

b. The use of food from salvaged, damaged, or unlabeled containers shall be prohibited. (III)

c. All perishable or potentially hazardous food shall be stored at safe temperatures of 45°F (7°C) or below, or 140°F (60°C) or above. (III)

d. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (III)

e. Supplies of staple foods for a minimum of a one-week period and or perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the nutrition section of the department of health. (II, III)

f. Table service shall be attractive. Dishes shall be free of cracks, chips, and stains. (III)

g. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

h. Poisonous compounds shall not be kept in food storage or preparation areas. (II)

63.19(4) Sanitation in food preparation area.

a. "Food Service Sanitation Manual," revised 1976, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C., shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with food service sanitation.

b. Residents shall not be allowed in the food preparation area, unless indicated in their individualized care plans. (III)

c. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

d. All foods, while being stored, prepared, displayed, served, or transported shall be protected against contamination from dust, flies, rodents, and other vermin. (II, III)

e. Food shall be protected from unclean utensils and worn surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage. (II, III)

f. All appliances and work areas shall be kept clean. (III)

g. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds. (III)

h. A schedule for duties to be performed daily shall be posted in each food area. (III)

i. All cooking stoves in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (III)

j. Spillage and breakage shall be cleaned up immediately. (III)

k. All garbage not mechanically disposed of shall be kept in nonabsorbent, cleanable containers pending disposal. All filled containers shall be covered and stored in a sanitary manner. (III)

l. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff. (III)

m. The walls, ceilings, and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. (III)

n. There shall be no washing, ironing, sorting, or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)

o. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

p. There shall be no animals or birds in the food preparation area. (III)

q. No dishes or cooking utensils shall be towel dried. (III)

r. In facilities of over 15 beds directions for the dishwashing procedure shall be posted and available to all kitchen personnel. (III)

s. If there is a dishwashing machine, it must provide a wash temperature of 140°F (60°C) to 160°F (71°C) and a rinse temperature of 170°F (70°C) to 180°F (82°C). (III)

t. The washing and sanitizing of dishes and utensils shall meet approved sanitation procedures and practices. In facilities of 15 or more beds, a mechanical dishwashing machine or three-compartment sink shall be used for washing dishes; a booster heater for the third compartment or sanitizing agent shall be used. (III)

u. All dishes, silverware, and cooking utensils shall be stored above the floor in a sanitary manner, in a clean, dry place protected from flies, splashes, dust, and other contaminants. (III)

v. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

w. Dishes, silverware, and cooking utensils shall be properly cleaned by prerinsing or scraping, washing, sanitizing, and air-drying. (III)

63.19(5) Hygiene of food service personnel.

a. Food service personnel shall be free of communicable diseases and practice hygienic food-handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work

assignments. Personnel recovering from a diagnosed intestinal infection shall submit a report from their physician showing freedom from infection before returning to work in the food service department. (II, III)

b. Staff employees who are full-time food service personnel shall wear clean, washable uniforms that are not used for duties outside the food service area. In all facilities, employees shall wear clean, washable clothing when in the food service area. (III)

c. Hairnets shall be worn by all staff food service personnel. Total enclosure of facial hair shall be provided for staff personnel. (III)

d. Clean aprons and hairnets shall be available for use by other personnel in emergency situations. (III)

e. Persons handling food shall be knowledgeable of good hand-washing techniques. A hand-wash sink shall be provided in or adjacent to the food service area. Continuous on-the-job training on sanitation shall be encouraged. (III)

f. The use of tobacco shall be prohibited in the kitchen. (III)

63.19(6) Food and drink. All food and drink consumed within the facility shall be clean and wholesome and comply with local ordinances and applicable provisions of state and federal laws. (II, III)

481—63.20(135C) Orientation program.

63.20(1) The administrator or designee shall be responsible for developing a written, organized orientation program for all residents. (III)

63.20(2) The program shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the medical or health care, recovery, and rehabilitation of the individual. (III)

481—63.21(135C) Individualized program of care.

63.21(1) The individualized program of care, including specific goals and regular evaluation of progress, shall incorporate the social services, psychological, educational activities, and medical needs of the residents, and shall be designed by an interdisciplinary team. (II)

63.21(2) Each residential care facility for the intellectually disabled shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The activity program shall include both group and individual activities. (III)

d. Residents shall be encouraged, but not forced, to participate in the activity program. (III)

63.21(3) Coordination of activities program.

a. Each residential care facility for the intellectually disabled with over 15 beds shall employ a person to direct the activities program. (III)

¹b. ²Staffing for the activity program shall be provided on the minimum basis of 45 minutes per licensed bed per week. (II, III)

c. The activity coordinator shall have completed the activity coordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)

d. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

63.21(4) Duties of activity coordinator. The activity coordinator shall:

- a. Have access to all residents' records excluding financial records; (III)
- b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)
- c. Keep all necessary records including:
 - (1) Attendance; (III)
 - (2) Individual resident progress notes recorded at regular intervals (at least every three months).
- (III)
 - (3) Monthly calendars, prepared in advance. (III)
 - d. Coordinate the activity program with all other services in the facility; (III)
 - e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

63.21(5) Supplies, equipment, and storage.

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

¹ Emergency, pursuant to Iowa Code section 17A.5(2) "b"(2).

² Objection filed 2/14/79; see Objection at end of chapter.

481—63.22(135C) Care review committee. Rescinded ARC 1205C, IAB 12/11/13, effective 1/15/14.

481—63.23(135C) Safety. The licensee of a residential care facility for the intellectually disabled shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

63.23(1) Fire safety.

a. All residential care facilities for the intellectually disabled shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size and condition of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

63.23(2) Safety duties of administrator. The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency which shall be rehearsed at least quarterly. (III)

a. The plan shall be available for review upon request. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

63.23(3) Resident safety.

a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when the resident is under direct supervision. (II, III)

b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)

c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

d. Smoking shall be permitted only in designated areas. (II, III)

e. Residents shall receive adequate supervision to ensure against hazards from themselves, others, or elements in the environment. (II, III)

63.23(4) Restraints.

a. Residents shall not be kept behind locked doors.

b. Temporary seclusion of residents shall be used only in an emergency to prevent injury to the resident or to others pending transfer to appropriate placements.

c. A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in the resident's room.

d. Divided doors shall be of such type that when the upper half is closed the lower section shall close.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.24(135C) Housekeeping.

63.24(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

63.24(2) Each resident unit shall be cleaned on a routine schedule. (III)

63.24(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (III)

63.24(4) A hallway or corridor shall not be used for storage of equipment. (III)

63.24(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

63.24(6) Clothing worn by personnel shall be clean and washable. (III)

63.24(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

63.24(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (III)

63.24(9) Polishes used on floors shall provide a nonslip finish. (III)

63.24(10) Throw or scatter rugs shall not be permitted. (III)

63.24(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

63.24(12) Cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall not be accessible to residents except as indicated in individualized programs of care. (II, III)

63.24(13) Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

481—63.25(135C) Maintenance.

63.25(1) Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities over 15 beds, this program shall be established in writing and available for review by the department. (III)

63.25(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)

63.25(3) Draperies and furniture shall be clean and in good repair. (III)

63.25(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

63.25(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electrical Code. (III)

63.25(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

63.25(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (III)

63.25(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

63.25(9) The facility shall be kept free of flies, other insects, and rodents. (III)

63.25(10) Janitor closet.

a. Facilities shall be provided with storage for cleaning equipment, supplies, and utensils. (III)

b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

c. In facilities licensed for over 15 beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and janitor's sink for emptying scrub pails. (III)

481—63.26(135C) Laundry.

63.26(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

63.26(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

63.26(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

63.26(4) Residents' personal laundry shall be marked with an identification. (III)

63.26(5) Bed linens, towels, washcloths, and residents' clothing shall be clean and stain-free. (III)

63.26(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lighted area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities of over 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

481—63.27(135C) Garbage and waste disposal.

63.27(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

63.27(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

63.27(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

63.27(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

63.27(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

481—63.28(135C) Buildings, furnishings, and equipment.

63.28(1) *Buildings—general requirements.*

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than 7 feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)

f. All fans located within 7 feet of the floor shall be protected by screen guards of not more than ¼-inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of resident's clothing. (III)

j. All stairways in resident-occupied areas shall have substantial handrails on both sides. (III)

k. Each stairway shall have protective barriers. (III)

l. Screens of 16 mesh per square inch shall be provided at all hold-open openings. (III)

m. Screen doors shall swing outward and be self-closing. At the discretion of the state fire marshal, screens for fire doors may swing in. (III)

n. All resident rooms shall have a door. (III)

o. All rooms in resident-occupied areas shall have general lighting switched at the entrance to each room. (III)

63.28(2) *Furnishings and equipment.*

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department's approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant, except on furniture provided by the resident and the property of the resident. (III)

d. Night lights may be required in corridors, at stairways, attendant's stations and resident's bedrooms, and hazardous areas with no less than 1 foot-candle throughout the area at all times. (III)

63.28(3) *Dining and living rooms.*

a. Every facility over 15 beds shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 63.28(3) "e" of the rules are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 square feet per licensed bed for all beds in excess of 100. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment. (III)

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably furnished. (III)

(3) When space is provided to be used only for activities and recreational purposes, the area shall be at least 15 square feet per licensed bed. At least 50 percent of the required area must be in one room. (III)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) When space is provided to be used only for dining, the area shall total at least 15 square feet per licensed bed. (III)

63.28(4) *Bedrooms.*

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average bed size. (III)

- c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)
- d. There shall be a comfortable bedside chair per resident bed. The resident's personal wishes shall be considered. (III)
- e. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)
- f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)
- g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)
- h. There shall be a wardrobe or closet in each resident's room. Minimum clear dimensions shall be 1 foot 10 inches deep by 1 foot 8 inches wide with full hanging space and provide a clothes rod and shelf. In a multiple bedroom, closet or wardrobe space shall be assigned each resident sufficient for the resident's needs. (III)
- i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)
- j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)
- k. Reading lamps shall be provided each resident in the resident's room. (III)
- l. Each room shall have sufficient accessible mirrors to serve residents' needs. (III)
- m. Usable floor space of a room shall be no less than 8 feet in any major dimension. (III)
- n. Bedrooms shall have a minimum of 80 square feet of usable floor space per bed. (III)
- o. There shall be no more than four residents per room. (III)
- p. Each resident room shall be provided with light and ventilation by means of a window or windows with an area equal to one-eighth of the total floor area. The windows shall be openable. (III)

63.28(5) Bath and toilet facilities.

- a. Provision shall be made for bars to hold individual towels and washcloths. (III)
- b. In facilities of over 15 beds all lavatories shall have paper towel dispensers and an available supply of soap. (III)
- c. Minimum numbers of toilet and bath facilities shall be one lavatory, one toilet for each five residents, and one tub or shower for each ten residents or fraction thereof. (III)
- d. There shall be a minimum of one bathroom with tub or shower, toilet stool and lavatory on each floor in multistory buildings for facilities licensed for over 15 beds. Separate toilets for the sexes shall be provided. (III)
- e. Grab bars shall be provided at all toilet stools, tubs, and showers. Grab bars, accessories, and anchorage shall have sufficient strength to sustain a deadweight of 250 pounds for five minutes. (III)
- f. Each toilet room shall have a door. (III)
- g. All toilet, bath, and shower facilities shall be supplied with adequate safety devices appropriate to the needs of the individual residents. Raised toilet seats shall be available for residents who are aged or infirm. (III)
- h. Toilet and bath facilities shall have an aggregate outside window area of at least 4 square feet. Facilities having a system of mechanical ventilation are exempt from this regulation. (III)
- i. Every facility shall provide a toilet with grab bars and lavatory for the public and staff. (III)

63.28(6) Heating. A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

63.28(7) Water supply.

- a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)
- b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)
- c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)

- d.* The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)
- e.* Hot and cold running water under pressure shall be available in the facility. (III)
- f.* Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department. (III)

63.28(8) Sewage system.

- a.* Sewage shall be collected and disposed of in a manner approved by the department. Disposal into a municipal system will be considered as meeting this requirement. (III)
- b.* Private sewage systems shall conform to the rules and regulations of the department of environmental quality, state health department, and the natural resources council. (III)
- c.* Every facility shall have an interior plumbing system complete with flushing device. (III)

63.28(9) Attendant's station. In facilities over 15 beds, an attendant's station with a minimum of 40 square feet shall be provided which is centrally located in the resident area and shall have a well-lighted desk with the necessary equipment for the keeping of required records and supplies. (III)

481—63.29(135C) Family and employee accommodations.

63.29(1) Children under 14 years of age shall not be allowed into the service areas in facilities of more than 15 beds. (III)

63.29(2) The residents' bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

63.29(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

63.29(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

63.29(5) In facilities of more than 15 beds, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

481—63.30(135C) Animals. No animals shall be allowed within the facility except with written approval of the department and under controlled conditions. (III)

481—63.31(135C) Environment and grounds.

63.31(1) A residential care facility for the intellectually disabled shall be constructed in a neighborhood free from excessive noise, dirt, polluted or odorous air, or similar disturbances. (III)

63.31(2) There shall be an area available for outdoor activities calculated at 25 square feet per licensed bed. (III) Open-air porches may be included in meeting such requirement.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.32(135C) Supplies.

63.32(1) Linen supplies.

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

63.32(2) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)

63.32(3) General supplies.

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

- b.* Clean and sanitary storage shall be provided for equipment and supplies. (III)

481—63.33(135C) Residents' rights in general.

63.33(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions subrules (63.33(2) to 63.33(6)) and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, their families or legal representatives and the public and shall be reviewed annually. (II)

63.33(2) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:

a. Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts. (II)

b. As changes occur in residents' physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities. (II)

63.33(3) Policies and procedures regarding the use of chemical and physical restraints shall define the use of restraints and identify the individual who may authorize the application of physical restraints in emergencies, and describe the mechanism for monitoring and controlling their use. (II)

63.33(4) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. (II)

63.33(5) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II)

63.33(6) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. The information must be provided upon admission or in the case of residents already in the facility upon the facility's adoption or amendment of resident right policies.

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from them. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident, or responsible party, indicating an understanding of these rights and responsibilities, and shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party, if applicable. In the case of an intellectually disabled resident, the signature shall be witnessed by a person not associated with or employed by the facility. The witness may be a parent, guardian, Medicaid agency representative, etc. (II)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf, or blind residents of such changes. (II)

63.33(7) Each resident or responsible party shall be fully informed in a contract as required in rule 481—63.14(135C), prior to or at the time of admission and during the resident's stay, of services available in the facility, and of related charges not covered by the facility's basic per diem rate. (II)

63.33(8) Each resident or responsible party shall be fully informed by a physician of the resident's health and medical condition unless medically contraindicated (as documented by a physician in the resident's record). Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, which may include, but is not limited to, nursing care, nutritional care, rehabilitation, restorative therapies, activities, and social work services. Each resident only participates in experimental research conducted under the U.S. Department of Health and Human Services' protection from research risks policy and then only upon the resident's informed written consent. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a confused or intellectually disabled individual, the responsible party shall be informed by the physician of the resident's medical condition and be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, to be informed of the medical condition, and to refuse to participate in experimental research. (II)

a. The requirement that residents shall be informed of their conditions, involved in the planning of their care, and advised of any significant changes in either, shall be communicated to every physician responsible for the medical care of residents in the facility. (II)

b. The administrator or designee shall be responsible for working with attending physicians in the implementation of this requirement. (II)

c. If the physician determines or in the case of a confused or intellectually disabled resident the responsible party determines that informing the resident of the resident's condition is contraindicated, this decision and reasons for it shall be documented in the resident's record by the physician. (II)

d. Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirements of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended December 1, 1981 (45 CFR 46). A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand the possible consequences of participating or not participating. The resident's (or responsible party's) written informed consent must be received prior to participation. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.34(135C) Involuntary discharge or transfer.

63.34(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a.* Medical reasons;
- b.* The resident's welfare or that of other residents;
- c.* Nonpayment for the resident's stay, as described in the contract for the resident's stay; or
- d.* Due to action pursuant to Iowa Code chapter 229. (I, II, III)

63.34(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

63.34(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

63.34(4) *Involuntary discharge or transfer prohibited—payment source.* A resident shall not be transferred or discharged solely because the cost of the resident's care is being paid under Iowa Code chapter 249A or because the resident's source of payment is changing from private support to payment under Iowa Code chapter 249A. (I, II)

63.34(5) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

- a.* The notice shall contain all of the following information:
- (1) The stated reason for the proposed transfer or discharge. (II)
 - (2) The effective date of the proposed transfer or discharge. (II)
 - (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. The notice required by paragraph 63.34(5) "*a*" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.34(7).

63.34(6) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice shall be placed in the resident's file. The notice shall contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.34(7). **63.34(7) Hearing.**

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, and the responsible party not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and responsible party within 10 working days after the hearing has been concluded.

63.34(8) Nonpayment. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

63.34(9) Discussion of involuntary transfer or discharge. Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 63.34(6) and emergency notice is provided within 48 hours.

63.34(10) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 63.34(10) "b" does not apply if the discharge has already occurred pursuant to subrule 63.34(6) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

63.34(11) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

63.34(12) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

- (1) A resident's incompatibility with or disturbance to other roommates.
- (2) For the welfare of the resident or other residents of the facility.
- (3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.
- (4) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(5) In the case of a resident whose source of payment was previously private but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

- (1) Change from private pay status to Title XIX, except as outlined in subparagraph 63.34(12) "a"(5). (II)
- (2) As punishment or behavior modification, except as specified in subparagraph 63.34(12) "a"(1). (II)
- (3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 63.34(12) "a," the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation and such notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

[ARC 1205C, IAB 12/11/13, effective 1/15/14; ARC 1752C, IAB 12/10/14, effective 1/14/15]

481—63.35(135C) Resident rights. Each resident shall be encouraged and assisted throughout the resident's period of stay, to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

63.35(1) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of issues or pending decisions of the facility that affect them and their views shall be solicited prior to action. (II)

63.35(2) The facility shall implement a written procedure for registering and resolving grievances and recommendations by residents or their responsible party. The procedure shall ensure protection of the resident from any form of reprisal or intimidation. The written procedure shall include:

- a. Designation of an employee responsible for handling grievances and recommendations. (II)
- b. A method of investigating and assessing the validity of a grievance or recommendation. (II)
- c. Methods of resolving grievances. (II)
- d. Methods of recording grievances and actions taken. (II)

63.35(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency and local law enforcement agency and the text of Iowa Code section 135C.46 to provide to residents a further course of redress. (II)

[ARC 1205C, IAB 12/11/13, effective 1/15/14]

481—63.36(135C) Financial affairs—management. Each resident, who has not been assigned a guardian or conservator by the court, may manage personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

63.36(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

63.36(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

63.36(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24(2). Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a confused or intellectually disabled resident, the resident's responsible party shall designate a method of disbursing the resident's funds. (II)

63.36(4) If the facility makes financial transactions on a resident's behalf, the resident must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

63.36(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's guardian. (II)

63.36(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.37(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. Each resident shall be free from chemical and physical restraints, except in an emergency for the shortest amount of time necessary to protect the resident from injury to the resident or to others, pending the immediate transfer to an appropriate facility. The decision to use restraints on an emergency basis shall be made by the designated charge person, who shall promptly report the action taken to the physician, and the reasons for using restraints shall be documented in the resident's record. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be a restraint. (II)

63.37(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (II)

63.37(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (II)

63.37(3) Drugs such as tranquilizers may not be used as chemical restraints to limit or control resident behavior for the convenience of staff or as a substitute for program. (II)

63.37(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

63.37(5) and **63.37(6)** Rescinded IAB 12/11/13, effective 1/15/14.

This rule is intended to implement Iowa Code sections 135C.14 and 135C.24 and Iowa Code chapter 235E.

[ARC 1204C, IAB 12/11/13, effective 1/15/14]

481—63.38(135C) Resident records. Each resident shall be ensured confidential treatment of all information contained in the resident's records, including information contained in an automatic data bank. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

63.38(1) The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

63.38(2) Similar procedures shall safeguard the confidentiality of residents' personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

63.38(3) The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)

481—63.39(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care for the resident's personal needs. (II)

63.39(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (II)

63.39(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

63.39(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

63.39(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

63.39(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

481—63.40(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code sections 35D.14 and 347B.5. (II)

63.40(1) Residents may not be used to provide a source of labor for the facility against their will. Physician's approval is required for all work programs. (I, II)

63.40(2) If the plan of care requires activities for therapeutic or training reasons, the plan for these activities shall be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time-limited and reviewed at least quarterly. (II)

63.40(3) Residents who perform work for the facility must receive remuneration unless such work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staff requirements. (II)

481—63.41(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

63.41(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

63.41(2) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

- a. The resident refuses to see the visitor. (II)
- b. The resident's physician documents specific reasons why such a visit would be harmful to the resident's health. (II)
- c. The visitor's behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)

63.41(3) Decisions to restrict a visitor are reviewed and reevaluated: each time the medical orders are reviewed by the physician; at least quarterly by the facility's staff; or at the resident's request. (II)

63.41(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

63.41(5) Telephones consistent with ANSI standards (405.1134(c)) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

63.41(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

63.41(7) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, qualified intellectual disabilities professional or facility administrator for refusing permission. (II)

63.41(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.42(135C) Resident activities. Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the attending physician or qualified intellectual disabilities professional as appropriate in the resident's record. (II)

63.42(1) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

63.42(2) All residents shall have the freedom to refuse to participate in these activities. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.43(135C) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided such use is not otherwise prohibited by these rules. (II)

63.43(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)

63.43(2) Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry. (II)

63.43(3) Any personal clothing or possessions retained by the facility for the resident during the resident's stay shall be identified and recorded on admission and a record placed on the resident's chart. The facility shall be responsible for secure storage of such items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

63.43(4) A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

63.43(5) A resident's personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident's guardian. The department may report findings that a resident's property has been used without written consent to the local law enforcement agency, as appropriate. (II)

481—63.44(135C) Family visits. Each resident, if married, shall be ensured privacy for visits by the resident's spouse; if both are residents in the facility, they shall be permitted to share a room, if possible. (II)

63.44(1) The facility shall provide for needed privacy in visits between spouses. (II)

63.44(2) Spouses who are residents in the same facility shall be permitted to share a room, if available, unless one of their attending physicians documents in the medical record those specific reasons why an arrangement would have an adverse effect on the health of the resident. (II)

63.44(3) Family members shall be permitted to share a room, if available, if requested by both parties, unless one of their attending physicians documents in the medical record those specific reasons why such an arrangement would have an adverse effect on the health of the resident. (II)

481—63.45(135C) Choice of physician. Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility. (II)

481—63.46(135C) Incompetent resident.

63.46(1) Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's responsible party when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

63.46(2) The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents' rights. (II)

481—63.47(135C) Specialized license for three- to five-bed facilities. The specialized license is for residential care facilities which serve persons with intellectual disabilities, chronic mental illness and other developmental disabilities having five or fewer residents as specified in Iowa Code section 225C.26. The facility is exempt from Iowa Code section 135.63. For this specialized license, all rules of 481—Chapter 63 apply except those which are deleted or amended, as indicated in subsequent rules.

63.47(1) The provider may apply for a specialized license from the department of inspections and appeals. Before the license is granted, the provider shall meet all of the following requirements:

a. Compliance with program requirements pursuant to Iowa Code chapter 135C and administrative rules relating to residential care facilities adopted by the state board of health, or

standards adopted by the Accreditation Council for Services for Persons with Mental Retardation and Other Developmental Disabilities (1984). The program of care shall emphasize an age-appropriate and least restrictive program.

b. The facility shall be located in areas zoned for single- or multiple-family housing, or be located in an unincorporated area, and shall be constructed in compliance with applicable local housing codes and rules adopted for this classification of license by the state fire marshal. (II, III)

c. The facility shall be appropriately accessible to residents who have disabilities. (II, III)

d. Written plans shall demonstrate that the facility meets the needs of the residents pursuant to individual program plans meeting age-appropriate and least restrictive program requirements. (II)

e. Written plans shall demonstrate the residents have reasonable access to employment for job-related training, education, generic community resources, or integrated opportunities to promote community interaction. (II)

f. Unless documented as appropriate within the residents' individual program plans, populations with primary diagnosis of chronic mental illness or intellectual disability/developmental disability may not be residents of the same specialized license facility. (II, III)

63.47(2) The housing for persons with intellectual disabilities, chronic mental illness, and other developmental disabilities, developed pursuant to this rule shall be eligible for funding utilized by licensed residential care facilities for the intellectually disabled.

63.47(3) Rescinded IAB 6/27/90, effective 8/1/90.

63.47(4) Rescinded IAB 6/27/90, effective 8/1/90.

63.47(5) The director of the department of inspections and appeals shall appoint a specialized license committee not to exceed nine members. This committee shall monitor the program rules and procedures adopted for this classification of license.

63.47(6) All conditions and criteria in 481—Chapter 63 apply to the specialized license with the exception of the following deletions: 481—63.7(135C), 63.8(2) “*b*,” 63.8(7) “*b*,” 63.13(1) “*l*,” 63.18(1) “*b*”(9), 63.19(1) “*a*,” “*b*,” “*c*,” 63.19(2) “*c*”(1), “*e*,” “*g*,” 63.19(4) “*a*,” “*b*,” “*c*,” “*g*,” “*h*,” “*i*,” “*l*,” “*n*,” “*p*,” “*q*,” “*r*,” “*t*,” 63.19(5) “*b*,” “*c*,” “*d*,” 63.21(1), (2), (3) “*a*” to “*e*,” (4) “*a*,” “*b*,” “*c*”(1) to (3), “*d*,” “*e*,” 63.21(5) “*c*,” 63.23(3) “*c*,” 63.23(4) “*c*,” “*d*,” 63.24(1), (7), (10), 63.25(10) “*b*,” 63.26(1) to (4), (6) “*b*,” 63.27(3) to (5), 63.28(1) “*a*,” “*b*,” “*f*,” “*g*,” “*k*,” “*l*,” “*m*,” “*o*,” 63.28(2) “*c*,” 63.28(3) “*a*,” “*d*,” “*e*,” “*f*”(3), “*g*”(2), 63.28(5) “*b*,” “*i*,” 63.28(9), 63.29(1), (4), (5), 63.33(6) “*d*.”

63.47(7) The following rules in Chapter 63 are amended for this specialized license as follows:

1. 63.3(1) “*a*” and 63.3(2)—Delete all references to 481—Chapter 60.
2. 63.8(1) “*a*”—Add “or qualified mental health professional (III)” after “qualified intellectual disabilities professional”. (III)
3. 63.8(2)—Add “For purposes of the specialized license, the administrator may act as an administrator for not more than three residential care facilities for the intellectually disabled, chronic mentally ill, and developmentally disabled.” (II)
4. 63.9(1)—Add “For purposes of the specialized license there shall be written personnel policies in all facilities to include hours of work and attendance at the education program.” (III)
5. 63.11(1) “*a*”—Delete the words “a managerial role of” in line 2.
6. 63.11(2) “*b*”—Delete the second sentence and “with 15 or less beds” in the third sentence.
7. 63.14(5) “*b*”—Add “or guardian” after “resident” in the first line.
8. 63.17(1)—Add a new paragraph: “v. Current Individual Program Plans (IPP)”.
9. 63.17(5) “*a*”—Add “For the specialized license, a job description shall be in the individual’s personnel file.” (III)
10. 63.19(2) “*b*”—Delete from the end “Recommended daily dietary allowances are:” Also delete subparagraphs (1) to (5).
11. 63.19(2) “*f*”—Delete the second sentence.
12. 63.19(3) “*e*”—Delete “for a minimum of a one-week period” in the first line.
13. 63.19(4) “*m*”—Delete “smooth, washable,” in the second line.
14. 63.19(4) “*o*”—Delete the second sentence.

15. 63.19(4) “s”—Add “and rinse” after “wash” in the first line and then delete the rest of the sentence after “(60°C)”.

16. 63.19(4) “w”—Change “or” to “and” in the first line and delete “,washing, sanitizing, and air-drying”.

17. 63.19(5) “b”—Delete the second sentence.

18. 63.19(5) “f”—Add “during food preparation” after “kitchen”.

19. 63.24(9)—Change “nonslip” to “slip-resistant” in the first sentence.

20. 63.25(1)—Delete the second sentence.

21. 63.28(1) “j”—Change “on both sides” in the first line to “on at least one side”.

22. 63.28(4) “n”—Change to read “Bedrooms shall have a minimum of 60 square feet for double, 80 square feet for single, and 100 square feet physical (wheelchair).” (III)

23. 63.28(4) “o”—Change “four” to “two”.

24. 63.28(5) “c”—Amend to read: “Minimum numbers of toilets and bath facilities shall be one for each five residents.” (III)

25. 63.28(5) “d”—Amend to read: “There shall be a minimum of one bathroom with tub or shower, toilet stool, and lavatory on each floor in the multistory buildings.” (III)

26. 63.28(5) “e”—Amend to read: “Grab bars shall be provided as needed.” (III)

27. 63.33(8)—Change any reference of “responsible party” to “legal guardian”.

28. 63.33(8) “c”—Delete “in the case of a confused or intellectually disabled resident”. Change any reference of “responsible party” to “legal guardian”.

29. 63.33(8) “d”—Change any reference of “responsible party” to “legal guardian”.

30. 63.46(1)—Change any reference of “responsible party” to “legal guardian” and delete the rest of the paragraph after “state law”.

63.47(8) “Qualified mental health professional” is a person who:

a. Holds a master’s degree from an accredited educational institution with coursework relevant to the position for which the person is hired;

b. Has at least two years’ relevant experience supervised by a qualified mental health professional in assessing mental health problems and needs of persons in providing appropriate mental health services for those persons;

c. Holds a current Iowa license when required by Iowa licensure law.

63.47(9) “Intellectual disabilities” as used in this chapter shall also include the chronically mentally ill and the developmentally disabled for purposes of this specialized license.

a. For the specialized license, “persons with intellectual disabilities” means persons with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, manifested during the developmental period.

(1) “General intellectual functioning” is defined as the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning;

(2) “Significantly subaverage functioning” is defined as approximately 70 IQ or below;

(3) “Adaptive behavior” is defined as the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for age and cultural group;

(4) “Developmental period” is defined as the period of time between conception and the eighteenth birthday.

b. For the specialized license, “persons with developmental disabilities” means persons with a severe, chronic disability which:

(1) Is attributable to mental or physical impairment, or a combination of physical and mental impairments;

(2) Is manifested before the person attains the age of 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency; and

(5) Reflects the person's need for a combination and sequence of services which are of lifelong or extended duration.

c. For the specialized license, "persons with chronic mental illness" means adults aged 18 or older, with persistent mental or emotional disorders that seriously impair their functioning relative to such primary aspects of daily living as personal relations, living arrangement or employment. Persons with chronic mental illness typically meet at least one of the following criteria:

(1) Have undergone psychiatric treatment more intensive than outpatient care more than once in a lifetime (e.g., emergency services, alternative home care, partial hospitalization or in-patient hospitalization);

(2) Have experienced a single episode of continuous, structured supportive residential care other than hospitalization.

In addition, such persons typically meet at least two of the following criteria, on a continuing or intermittent basis for at least two years:

1. Are unemployed, or employed in a sheltered setting, or have markedly limited skills and a poor work history;

2. Require financial assistance for out-of-hospital maintenance and may be unable to procure this assistance without help;

3. Show severe inability to establish or maintain a personal social support system;

4. Require help in basic living skills;

5. Exhibit inappropriate social behavior which results in demand for intervention by the mental health or judicial system.

In atypical instances chronically mentally ill persons may vary from the above criteria.

63.47(10) For the specialized license, there shall be implemented an individual program plan (IPP) of goals and objectives for each resident developed using evaluations, assessments and progress reports. (II)

63.47(11) For the specialized license, "age-appropriate" shall mean activities, settings, personal appearance and possessions commensurate with the person's chronological age.

63.47(12) For the specialized license, "least restrictive" shall mean the availability to the person of programs, services and settings that give the greatest opportunity for human development and to associate with and become part of the general society.

63.47(13) "Individual program plan" shall be a written plan for the provision of services to the person and, when appropriate, to the person's family, that is developed and implemented, using an interdisciplinary process, which identifies the person's and, when appropriate, the person's family's functional status, strengths, and needs, and service activities designed to enable a person to maintain or move toward independent functioning. The plan is developed in accordance with the developmental model, which is a service approach that recognizes and assumes the potential for positive change, growth, and sequential development in all people. (II)

a. An individual program plan shall be developed and implemented for each individual accepted for service, regardless of the individual's chronological age or developmental level. (I, II)

b. The interdisciplinary team shall develop the plan. (II) For the purpose of the specialized license, the team shall include:

(1) The person, the person's legal guardian, and the person's family unless the family's participation is contrary to the wishes of the adult person who has not been legally determined to be incompetent; (II, III)

(2) The service coordinator or case manager; (II, III)

(3) All current service providers; and (II, III)

(4) Other persons whose appropriateness may be identified through the diagnosis and evaluation or current reevaluation. (III)

c. The person or the person's legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by court. (III)

d. The resident and the facility retain the rights of appeal and due process from the interdisciplinary team decisions. (II, III)

63.47(14) Goals and objectives shall be stated separately and a time frame shall be specified for their achievement. (II, III)

- a.* Each individual enrolled shall have an individual program plan. (II)
- b.* The initial individual program plan shall be developed within 30 calendar days after the individual is enrolled in this service. (II)
- c.* The individual program shall be developed by an appropriately constituted interdisciplinary team. (II)
- d.* The individual program plan shall state specific objectives to reach identified goals and shall identify the individuals responsible for implementation. (II, III)
- e.* Goals and objectives shall be stated separately. (II, III)
- f.* Goals and objectives shall be assigned projected evaluation completion dates and shall be reviewed at least annually. (II, III)
- g.* Goals and objectives shall be expressed in behavioral terms that provide measurable indices of progress. (II)
- h.* Goals and objectives shall be sequenced with a developmental progression appropriate to the individual. (II, III)
- i.* Goals and objectives of the individual program plans shall be assigned priorities by the interdisciplinary team and implemented with documentation of needed resources. (II, III)
- j.* The individual program plan shall be written in terms that are understandable to all concerned. (II, III)

63.47(15) Where implementation is a shared responsibility, the individual program plan shall identify the agencies or persons responsible for delivering the services required. (III)

63.47(16) A review of the individual program plan shall be made at least quarterly by a member or members of the individual's interdisciplinary team, as determined by the team, in order to ensure the continuing implemented appropriateness of the plan and any necessary action to be initiated. (II)

- a.* Problems or changes that call for review of the individual program plan by the team shall be indicated. (II)
- b.* The team shall be convened at least annually to review the individual program plan where problems or changes that call for review by the team are indicated. (II, III)
- c.* The team review shall assess the individual's response to activities designed to achieve the objective stated in the individual program plan. (II, III)
- d.* The team review shall modify activities or objectives as necessary. (II, III)
- e.* The team review shall determine the services that are needed. (II, III)
- f.* The team review shall include consideration of the advisability of continued enrollment or alternative placements. (II, III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.48(135C) County care facilities. Rescinded ARC 0765C, IAB 5/29/13, effective 7/3/13.

481—63.49(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “j” of this rule. (I, II, III)

63.49(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

- a.* Health and safety risks for residents;
- b.* Compatibility of the proposed business or activity with the facility program;
- c.* Noise created by the proposed business or activity;

- d. Odors created by the proposed business or activity;
- e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- g. Proposed staffing for the business or activity;
- h. Sharing of services and staff between the proposed business or activity and the facility;
- i. Facility layout and design; and
- j. Parking area utilized by the business or activity.

63.49(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

63.49(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

481—63.50(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

63.50(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

63.50(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

63.50(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

63.50(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 10A.202, 10A.402, 135C.1, 135C.2(5), 135C.2(6), 135C.6(1), 135C.14(3), 135C.14(5), 135C.14(8), 135C.25, 135C.25(3), 135C.36, 227.4, 235B.1(6), and 235B.1(11) and 1988 Iowa Acts, chapter 1239.

[Filed 8/18/77, Notice 2/23/77—published 9/7/77, effective 10/13/77]

[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]

[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]

[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]

[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]

[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]

[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]

[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]

[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]¹

[Filed 5/15/86, Notice 2/26/86—published 6/4/86, effective 7/9/86]

[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]²

[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]

[Filed emergency after Notice 3/12/87, Notice 12/31/86—published 4/8/87, effective 3/12/87]

[Filed 3/12/87, Notice 1/25/87—published 4/8/87, effective 5/13/87]

[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
 [Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88][◇]
 [Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]
 [Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]
 [Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88][◇]
 [Filed 12/9/88, Notices 8/24/88, 10/5/88—published 12/28/88, effective 2/1/89]
 [Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
 [Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
 [Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
 [Filed 6/8/90, Notice 1/10/90—published 6/27/90, effective 8/1/90]
 [Filed 7/17/90, Notice 5/2/90—published 8/8/90, effective 9/12/90]
 [Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
 [Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
 [Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 3/25/92]³
 [Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
 [Filed 3/11/94, Notice 9/15/93—published 3/30/94, effective 5/4/94]
 [Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
 [Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
 [Filed 1/21/97, Notice 8/14/96—published 2/12/97, effective 3/19/97]
 [Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
 [Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
 [Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
 [Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
 [Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
 [Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
 [Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
 [Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
 [Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
 [Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
 [Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
 [Filed ARC 0765C (Notice ARC 0600C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
 [Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
 [Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1752C (Notice ARC 1648C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]
 [Editorial change: IAC Supplement 1/21/15]
 [Filed ARC 2643C (Notice ARC 2395C, IAB 2/3/16), IAB 8/3/16, effective 9/7/16]⁴

◇ Two or more ARCs

¹ Effective date of 63.15(2) “a” and “b” delayed 70 days by the Administrative Rules Review Committee, IAB 2/26/86. Effective date of 63.15(2) “a” and “b” delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAC 6/4/86.

² See IAB, Inspections and Appeals Department.

³ Rule 481—63.49(135C), effective 7/1/92.

⁴ September 7, 2016, effective date of 57.19(3) “d,” 62.15(2) “d,” and 63.18(3) “d” [ARC 2643C] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 5, 2016.

OBJECTION

At its February 13 meeting the Administrative Rules Review Committee voted the following objection: [Subrules 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b,” 63.21(3)“b,” published IAB 12/13/78]

The committee objects to the amendments to 470* IAC 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b” and 63.21(3)“b,” which strike the phrase “Twenty-five percent of the staffing may be provided by qualified volunteers. The time shall be spent in working with the organized program activity.”, on the grounds these provisions are unreasonable. It is the understanding of the committee these deletions in effect require facilities to employ a person to coordinate recreation activities. It is the feeling of the committee this would result in higher per bed costs without demonstrably improving the services rendered to the patient. Volunteers have always played a major role in health care institutions, and no evidence has been submitted indicating a decline in that role or in public interest in donating time and energy.

These amendments appear in the 12-13-78 IAB, and have been filed under the emergency provisions of chapter 17A, 1979 Code.

*Chapter 57 transferred to Inspections and Appeals[481], IAC 7/15/87.

CHAPTER 13
IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY
ORGANIZATION AND GENERAL RULES

[Prior to 4/20/88, Regents, Board of[720]]

681—13.1(262) Organization.

13.1(1) *Statement of university mission.* Iowa State University of science and technology is a public land-grant institution serving the people of Iowa, the nation, and the world through its interrelated programs of instruction, research, extension and professional service. With an institutional emphasis in areas related to science and technology, the university carries out its traditional mission of discovering, developing, disseminating and preserving knowledge. The university's mission and vision may be found in the strategic plan at www.president.iastate.edu/planning/strategic/plan.php.

13.1(2) *Officers.* The university has three statutory officers: president, secretary, and treasurer. The president is the chief administrative officer of the university and has authority and duties as have been delegated by the board of regents.

A detailed listing of the university units is shown on the organizational chart at the following Web site: www.president.iastate.edu/org/univorg.pdf.

13.1(3) *Operations.*

a. The senior vice president and provost oversees the academic, research, and extension activities of the university.

b. The academic mission of the university is principally carried out through its eight colleges: graduate, agriculture and life sciences, engineering, human sciences, liberal arts and sciences, design, business and veterinary medicine. The dean of each college is its chief administrative officer.

c. Extension and outreach are integral parts of the land-grant university system and provide the link whereby the findings of research are taken to the people of Iowa. The chief administrative officer is the vice president for extension and outreach.

d. The vice president for research and economic development oversees the university's broad range of research, which contributes to economic development in the state and the nation.

e. The senior vice president for student affairs oversees the various services provided to students, including student activities, student health and student housing and dining.

f. The senior vice president for business and finance oversees the various business-related functions of the university, including physical plant, safety, accounting and purchasing.

13.1(4) *Communications.* Inquiries, submissions, and requests should be addressed to the Office of University Relations. Contact information for the Office of University Relations may be found online at the following address: www.ur.iastate.edu. Communications may also be addressed to the office of the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905. Generally, inquiries, submissions, and requests by the public may be submitted by informal letter or e-mail. However, application for some purposes is to be made on a specified form. Rule 681—13.6(262) provides an address for obtaining forms.

13.1(5) *Policy library.* The university policy library contains the policies governing the internal administrative operation of the university. It is available online at the following address: www.policy.iastate.edu/. Copies of the policies may be obtained from the Iowa State University Policy Administrator, 3550 Beardshear Hall, telephone (515)294-1385.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.2 to 13.5 Reserved.

681—13.6(262) Forms. The university uses a number of forms (primarily electronic) in dealing with the public. Forms may be found via the University Forms Web site at www.policy.iastate.edu/forms.php.
[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.7(262) General rules. Rescinded IAB 8/7/02, effective 9/11/02.

681—13.8(262) Contracting authority. Except for authority retained by the board of regents in the rules adopted under [681] of the Iowa Administrative Code or in the regents policy manual, the board of regents has delegated to the president authority to enter into contracts and agreements. The president has further delegated authority for entering into such contracts and agreements as outlined in the university's contracting authority policy. This policy is available for review at the following Web site: <http://www.policy.iastate.edu/policy/contracting>.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13; ARC 2672C, IAB 8/17/16, effective 9/21/16]

681—13.9(262) Lost and found. Inquiries about items lost or found may be made by contacting Central Stores at (515)294-5762. A listing of lost and found items may be found at www.iastate.edu/found/. [ARC 1078C, IAB 10/2/13, effective 11/6/13]

USE OF FACILITIES

681—13.10(262) General priority for facilities and grounds use. University facilities and grounds are primarily dedicated to the university's missions of teaching, research and service. While facilities and grounds are generally open to noncommercial use by the public, students, student organizations and staff, use for other than university-related purposes must not substantially interfere with university activities and must be in conformity with the requirements of this chapter. University-related activities, including the activities of recognized campus and student organizations, will be given priority. (The ISU facilities and grounds use activities policy may be found in the policy library.)

13.10(1) Except as specifically indicated, the policies stipulated in rules 681—13.11(262) to 681—13.19(262) are applicable to noncommercial uses.

13.10(2) Commercial uses, including solicitation, advertising and sales, are subject to the university's rule on commercial and charitable uses in rule 681—13.15(262). [ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.11(262) Access to facilities and grounds. University facilities and grounds are generally open to public access except as provided below:

13.11(1) Persons may not enter facilities or grounds without authorization when the facilities or grounds are locked, when signs indicate they are closed to the public or when they are closed to the public for specific events.

13.11(2) The following facilities and grounds are restricted areas. Access requires express permission of the relevant building supervisor, superintendent or other person in charge of the facility: individual residences or dwellings; research laboratories or facilities; farms and associated buildings; animal storage and confinement facilities; utility and maintenance closets; mechanical rooms; utility facilities; utility tunnels; storage areas; hazardous materials waste storage and handling areas; marked or fenced construction areas; institutional food preparation areas; private offices; workrooms; shops; areas where medical, psychological or other consultation takes place; radio and television studios; intercollegiate athletics competition facilities; or areas which bear signs indicating that access is restricted. The university has leased some of its facilities and grounds to other parties for use related to university purposes (for example, the Ames Laboratory and the National Laboratory for Agriculture and the Environment). Such areas are not open to public use except as provided by the lessee of the property or facility. The buildings at the Iowa State Center (Scheman Continuing Education Building, Stephens Auditorium and Fisher Theater) and the Iowa State University Research Park are managed by separate organizations that regulate the use of these facilities and grounds.

13.11(3) Access to facilities and grounds may be denied when they are closed to the public for special university events or when access would conflict with an approved use of the facilities or grounds. The university may limit or control access to areas of the campus for ceremonial events and celebrations such as graduation and VEISHEA.

13.11(4) Unapproved uses of university facilities and grounds by the general public are subject to preemption for university activities, for use by recognized student and campus organizations and for use by students, faculty and staff for purposes related to the university's mission.

13.11(5) Access to performances, art exhibits, museums and other exhibitions may be regulated by requirement of payment of a fee for entry. Visitors are required to abide by policies established for the various facilities and grounds.

13.11(6) Access to campus roads and parking is governed by university parking and traffic regulations, as well as signage erected upon campus roadways and parking areas.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.12(262) When authorization is required for use of facilities and grounds open for general use. To prevent conflicts in the use of facilities and grounds, groups or persons wishing to use facilities and grounds, whether indoors or outdoors, should schedule use of university facilities and grounds as provided in this rule. ISU has designated public forum areas with few restrictions. Public events require filing of a notice, or approval depending on the event. "Public events" are defined as outdoor events in which more than 50 persons are participating or at which the sponsor reasonably expects more than 50 persons to be involved, or indoor events in which more than 15 persons are participating or at which the sponsor reasonably expects more than 15 persons to be involved. Organizations and groups desiring to use university facilities and grounds should contact the offices listed in subrule 13.12(3) to determine availability and fees for use.

13.12(1) Outdoor areas.

a. Designated public forums. The Edward S. Allen Area of Free Debate, located west and south of the Hub, and the area south of the Campanile have been designated as public forums for noncommercial expression. If these areas have not been reserved for use for university purposes or by student, faculty or staff organizations, any member of the public or of the university community may use these areas for expressive activities on a first-come, first-served basis. Signs or placards, each of which is carried by one or two persons, are permitted. Freestanding displays are permitted as long as the display occupies a space of less than 200 cubic feet and has a footprint of not more than 100 square feet, weighs less than 300 pounds and is accompanied at all times by an individual responsible for the display. Leafleting may be conducted if done in a way that avoids substantial littering of the campus.

b. Uses that require only notice. Student organizations, university departments, and others wishing to use outdoor areas other than a designated public forum for a public event must notify the Memorial Union Event Management office. If possible, such notice should be submitted at least 24 hours in advance of the event but, in any case, must be submitted at least 3 hours prior to the event. No approval is necessary if the event meets the following criteria:

(1) On weekdays between the hours of 8 a.m. and 4 p.m., the event will be held at least 100 feet away from buildings that normally hold classes;

(2) No other person or group has been authorized to use the area or has filed a notice of intent to use that area or an adjacent area;

(3) The organizers do not intend to use amplification equipment or equipment requiring use of electrical power connections. Hand-held megaphones are permitted if used so as to direct the sound away from nearby buildings that normally hold classes;

(4) Participants will not use displays other than signs or banners carried at all times by one or two participants (unattended displays may not be used without permission);

(5) If the event is not held at one of the two public forum areas, the event will occur only between the hours of 8 a.m. and 10 p.m.; and

(6) The sponsor of the event indicates that the event will comply with the general restrictions indicated above.

c. Uses that require approval. A public event not at a designated public forum, and which does not meet the above criteria, requires prior approval by the filing of an Online Event Authorization Request Form with the Student Activities Center when recognized student organizations make the request and with Facilities Planning and Management when university departments and nonuniversity entities make

the request. It is preferred that the online request be made at least ten business days and not less than four business days in advance of the proposed event. The Student Activities Center or Facilities Planning and Management will make every effort to provide approval or nonapproval, with a statement of the reasons for nonapproval, in a timely manner. The sponsors of the event may request a waiver of the four-day requirement. A waiver may be granted if the Student Activities Center or Facilities Planning and Management determines that there are good reasons for an exception.

(1) Approval of events will be based upon whether the event meets the general rules indicated in rule 681—13.14(262) and whether the event is appropriate for the location. Approval may be conditioned upon sponsors making reasonable assurances that the event will comply with the general rules. In addition, reasonable time, place and manner restrictions may be required. Unless the event will violate the law, events will not be disapproved based upon the content of proposed speaking or expressive activity. Persons denied authorization may appeal to the senior vice president for business and finance.

(2) Following approval of the event, the organization shall make particular arrangements regarding location, electrical power needs, custodial services, and provision for liability insurance as directed by the Student Activities Center or Facilities Planning and Management. If parking lots will be involved, the organization must receive clearance from the Parking Division, (515)294-3388. If streets will be involved, the organization must receive clearance from the office of the senior vice president for business and finance, (515)294-6162. Preferred locations for outdoor events covered under this subrule are the areas south or north of the Campanile, west of Curtiss Hall, south of MacKay Hall, south of the Hub, south of the Parks Library, and west of Marston Hall provided the events do not conflict with university classes or scheduled activities and provided the events conform to appropriate uses for the area.

13.12(2) Indoor areas.

a. General policy regarding use. Any use of indoor areas must not conflict with university programs and events and must be compatible with the purpose of the facility or the particular area to be used.

(1) Members of the general public and campus community are free to enter university facilities, other than restricted areas, during business hours as necessary to transact business, seek information about the university or deliver petitions or correspondence.

(2) Organizations and groups desiring to use university buildings and facilities for meetings, events, and conferences should contact the offices listed in 13.12(3) to determine availability and fees for use.

(3) Organizations (other than recognized campus and student organizations) using classrooms, auditoriums, and meeting rooms will be charged the customary rental of those facilities. All users will be responsible for costs incurred for setup, equipment use, cleanup and use of services and materials of the university.

(4) To avoid disruption, the following kinds of indoor areas are not available for non-university-related assembly or solicitation: hallways, stairways, waiting rooms, residence halls and apartments, dining facilities, workrooms, common areas provided around service windows, the Lloyd Veterinary Medical Center and the Thielen Student Health Center. Atria and open areas in buildings are generally available for use except when they are used as waiting areas or common areas around service windows.

b. Uses that require scheduling. To avoid conflicts with university activities and permitted use by others, organized use of indoor areas by groups of 15 or fewer persons that will substantially exclude others from using the same or adjacent areas, other than transitory passage through public areas and hallways, requires scheduling through the Memorial Union Event Management Office when recognized student organizations make the request and with Facilities Planning and Management or Conference Planning and Management when university departments or nonuniversity entities make the request.

c. Uses that require approval. Organized or concerted assembly in or solicitation at indoor areas by groups involving more than 15 persons for non-university-related purposes must be approved by the filing of an Online Event Authorization Request Form with the Student Activities Center when recognized student organizations make the request and with Facilities Planning and Management or Conference Planning and Management when university departments or nonuniversity entities make the request. It is preferred that the online request be made at least ten business days and not less than four

business days in advance of the activity. The Student Activities Center and Facilities Planning and Management or Conference Planning and Management will make every effort to provide approval or nonapproval, with a statement of the reasons for nonapproval, in a timely manner. The sponsors of the event may request waiver of the four-day requirement. A waiver may be granted if the Student Activities Center or Facilities Planning and Management or Conference Planning and Management determines that there are good reasons for an exception.

(1) Approval of events will be based upon whether the event meets the general rules indicated in rule 681—13.14(262) and whether the event is appropriate for the facility.

(2) Approval may be conditioned upon sponsors making reasonable assurances that the event will comply with the general rules. In addition, reasonable time, place and manner restrictions may be required. Unless the event will violate the law, events will not be disapproved based upon the content of proposed speaking or expressive activity. Persons denied authorization may appeal to the senior vice president for business and finance.

13.12(3) *Facilities and grounds managed by separate university offices or organizations.*

a. The Student Activities Center and users must coordinate use of these facilities with the listed offices:

(1) Common areas in buildings—building supervisor for the building can be found at www.fpm.iastate.edu/maps/buildings/;

(2) Rooms in academic or administrative buildings—Room Scheduling, General Services Building, (515)294-4493. Room Reservation Request Forms are available at www.fpm.iastate.edu/roomscheduling/departments_form/;

(3) Memorial Union—Event Management Office, 3630 Memorial Union, (515)294-1437;

(4) Iowa State Center—Center Office, 4 Scheman Conference Center, (515)294-3347;

(5) Residence Halls—(515)294-2900 (general); (515)294-6428 (meeting rooms); (515)294-8384 (conferences);

(6) Schilletter and University Village (SUV) Office—(515)294-5360;

(7) Fredericksen Court Office—(515)294-2107;

(8) Recreation facilities and grounds—Recreation Services Administrative Office, 1180 State Gym, (515)294-4980. Recreation facilities and grounds are listed at www.recservices.iastate.edu/facilities/;

(9) Howe Hall Auditorium—Engineering Distance Education, (515)294-7470;

(10) University Studios—(515)294-6014;

(11) Farm Bureau Pavilion—Animal Science, (515)294-5424;

(12) Athletics facilities and grounds—Athletic Department, Jacobson Athletic Building, (515)294-3662. Athletic facilities and grounds are listed at www.cyclones.com/;

(13) Alumni Center—Alumni Association, 420 Beach Avenue, (515)294-4625;

(14) Reiman Gardens—1407 University Boulevard, (515)294-8994.

b. Students and student organizations have priority for use of residence facilities and grounds, recreation facilities and grounds and the Memorial Union. Students and student organizations may directly contact the offices listed above to schedule use of meeting rooms and other facilities and grounds.

c. Organizations (other than recognized campus and student organizations) using facilities and grounds will be charged the customary rental of those facilities and grounds. All users will be responsible for costs incurred for setup, equipment use, cleanup and use of services and materials of the university.

d. As part of the university's comprehensive effort to conserve energy and save money, activities will generally be scheduled in buildings normally open and operational in the evenings. More information may be obtained through the Room Scheduling Office, (515)294-5338. The ISU policy on facilities and grounds use after hours may be found in the policy library.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.13(262) Display of noninstructional materials.

13.13(1) *Displays within buildings.* Posters, advertisements, or other visual display materials may be affixed only on permanent building bulletin boards. Such display materials may not have a surface

area of greater than 300 square inches. Additional information regarding displays within buildings may be found in the ISU policy on facilities and grounds use activities in the policy library.

a. “General” bulletin boards may be used by Iowa State University students and organizations as well as the general public without approval for posting.

(1) Bulletin board notices must include the date they are posted or the date of the event and may be posted no more than one month in advance of the event.

(2) Undated and early notices will be removed.

(3) Properly posted notices will be removed after 30 days or, in the case of advertisements for an event, after the date of the event.

b. “Restricted” bulletin boards are limited to the use of designated departments or organizations. Use of these bulletin boards must be approved by the official representative of the respective department or organization.

13.13(2) Exterior displays.

a. Residence department buildings. Signs, banners, and other display materials may be affixed to buildings only with the authorization of the coordinator of residence life in each residence complex.

b. Academic buildings. Signs, banners, and other display materials may not be affixed to buildings. Rare exceptions may be made in cases in which the display materials are clearly associated with an academic function. Prior approval must be obtained from the Student Activities Center and from Facilities Planning and Management by the submission of an Activity Authorization Form. Such forms are available at the Student Activities Center.

c. Exterior display, not on buildings. Signs, banners, and other display materials may not be affixed to sidewalks, trees, fences, shrubs, light poles, or any other fixture of the landscape, nor may freestanding displays be placed in any area other than those areas scheduled through the activity authorization process. Except for those displays indicated in 13.12(1) “*a*” and 13.12(1) “*b*”(4) at events for which approval is not required, prior approval of displays must be obtained from the Student Activities Center by the submission of an Online Event Authorization Request Form for recognized student organizations or from Facilities Planning and Management for university departments or nonuniversity entities.

d. Cleanup and repair. All visual displays should be removed as they become outdated or after authorization has expired. Cleanup and repair charges may be billed to the organization/department/individual for failure to clean up promptly. Organizations, departments, individuals, or nonuniversity entities may be billed for cleanup and repair expenses for illegally posted materials. Additional information regarding exterior displays may be found in the ISU policy on facilities and grounds use activities in the policy library.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13]

STANDARDS OF CONDUCT ON CAMPUS

681—13.14(262) General rules for facilities and grounds use.

13.14(1) University facilities and grounds may not be used in a manner that:

- a.* Substantially disrupts university events or the lawful use by other persons;
- b.* Substantially interferes with the free flow of vehicle or pedestrian traffic;
- c.* Results in injury or creates the threat of injury to persons;
- d.* Involves commission of a crime or illegal behavior;
- e.* Damages or defaces university property or threatens to damage property; or
- f.* Results in significant littering, pollution or other nuisance.

13.14(2) No person shall engage in harassment or stalking as defined by Iowa criminal law or engage in sexual or racial harassment in violation of university policy.

13.14(3) No person may engage in public urination, defecation or other actions that create a sanitary hazard.

13.14(4) A person who enters specialized facilities, such as libraries, recreation facilities and grounds, clinics, research laboratories and other research facilities, and areas not open to the general

public must comply with policies established by such facilities and grounds. Questions about applicable policies should be directed to the manager or supervisor of the facility or grounds.

13.14(5) Weapons are not permitted on the campus except for purposes of law enforcement and as specifically authorized for purposes of instruction, research or service. A weapon is any instrument or device which is designed primarily for use in inflicting death or injury upon a human being or animal and which is capable of inflicting death or injury when used in the manner for which it was designed. Weapons include any pistol, revolver, shotgun, machine gun, rifle or other firearm, BB or pellet gun, taser or stun gun, bomb, grenade, mine or other explosive or incendiary device, ammunition, archery equipment, dagger, stiletto, switchblade knife, or knife having a blade exceeding five inches in length. Residents of university housing may possess knives having a blade exceeding five inches for cooking purposes.

13.14(6) Consumption of alcohol is not permitted in outdoor areas of the campus. An exception is made for the consumption of alcoholic beverages served at approved events for which a valid liquor permit has been issued as provided by state law, and for private events or in designated areas at events. Unauthorized alcoholic beverages are subject to confiscation.

13.14(7) Vehicles are not permitted off roadways or parking areas without permission from Manager, Campus Services, 152 General Services Building, telephone (515)294-0692 or from the Manager of Parking Division, 27 Armory, telephone (515)294-1987.

13.14(8) For reasons of safety, sanitation, and preservation of campus property, camping is not permitted except for special events approved by the senior vice president for business and finance or senior vice president for student affairs.

[ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.15(262) Commercial and charitable uses. This rule applies to commercial and charitable uses other than those of university units, of university-affiliated entities or of recognized campus organizations.

13.15(1) *Commercial solicitation, advertising and sales.* Commercial solicitation, advertising and sales are not permitted on the campus except as follows:

a. Newspapers and periodicals may be distributed in established locations in accordance with the university's periodical distribution policy, which is available from the senior vice president for business and finance.

b. Commercial advertising or displays on bulletin boards must conform to the provisions of subrule 13.13(1).

c. Commercial sales or solicitation may be approved by the senior vice president for business and finance. Such activity may be approved for academic areas of the campus if the activity directly relates to the academic program. Otherwise, such commercial activity may be approved only in the area directly to the north of the Memorial Union, with priority being given to all other campus-related uses.

13.15(2) *Charitable solicitation.* Use of university mail systems and related facilities may be approved by the senior vice president for business and finance for the solicitation of employees by charitable organizations when the following criteria are met.

a. The charitable organization presents documentation of its tax-exempt status as provided in Section 501(c)(3) of the Internal Revenue Code;

b. The solicitation is conducted once a year through an on-campus coordinated campaign of all eligible organizations meeting the conditions and giving written notice to the university of the desire to participate at least 120 days prior to the campaign period;

c. The organization may be expected to pay the administrative and out-of-pocket costs associated with using the university mail system or other university facilities and grounds;

d. The solicitation by any one charitable organization may occur once in any calendar year; and

e. Any eligible charitable organization acting pursuant to the authority of this rule may also make use of the payroll deduction system described in Iowa Code sections 70A.14 and 70A.15, if qualified under the terms of those provisions.

[ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.16(262) Conduct at public events. The following rules are intended to ensure the safety of students, faculty, staff and visitors to the campus and to ensure widest enjoyment of the benefit of public events at Iowa State University.

13.16(1) No person may engage in behavior that causes or threatens injury or damage to property, that results in disruption of a public event or that causes unreasonable interference with others' enjoyment of a public event.

13.16(2) Special rules may be enforced with respect to events that are open to the public, based upon the nature of the event. For example, performers may require that no cameras or audio- or video-recording devices be permitted in the arena. Persons may be refused entry with items that may be used as projectiles. Umbrellas and other items that may obstruct the views of other attendees may be excluded from facilities and grounds.

13.16(3) Possession of, carrying in or consumption of alcohol is not permitted at public events. An exception may be made for the consumption of beer or wine served at approved events for which a valid liquor permit has been issued as provided by state law, and for designated events or designated areas at events. Unauthorized alcoholic beverages are subject to confiscation.

13.16(4) Aisles, walkways and stairs must be kept clear of hazards and obstacles. Knapsacks, duffel bags, backpacks, bags or other containers shall be small enough to fit completely on or under one seat, and shall be so kept at all times.

13.16(5) Laser pointers and similar devices are not permitted at athletic and performing events and are subject to confiscation. A person who uses any such device to interfere with athletes and performances is subject to immediate removal from the facility and grounds.

13.16(6) Iowa State University reserves the right to reassign parking and seating locations at public events for purposes of access, efficiency or to reduce the likelihood of disruption.

13.16(7) Any person carrying containers or bags which may contain materials not permitted at public events may be required either to open the container or bag to assure compliance, or to check the container or bag, if such facilities are available for storage of such items, or to dispose of such materials, or to return the materials to the person's automobile. In addition, a patron may be subject to search using a magnetometer to ensure the absence of weapons or other hazardous or banned materials.

13.16(8) Auditorium doors will be closed when performances begin. A latecomer may be required to wait to be seated until an appropriate program break. Standing in aisles during performances is not permitted, except by employees.

13.16(9) In order to ensure that a person attending events may enter facilities and grounds efficiently, a person leaving the facility or grounds early in the event may be denied the right to secure a pass to reenter.

[ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.17(262) Regulation of smoking, alcohol and food and beverages.

13.17(1) Consistent with the Iowa smokefree air Act (Iowa Code chapter 142D), Iowa State University has adopted a smoke-free campus policy, which is incorporated by reference herein. The policy is available on the Internet at the following address: <http://policy.iastate.edu/policy/smoking/>.

13.17(2) Unless specifically authorized, the consumption of alcoholic beverages is not permitted on the campus, within university buildings, within university vehicles, or on other university property. Alcohol may be consumed in residences or privately leased units on the campus as allowed by law and the rules or lease agreement applicable to the unit. Otherwise, the university will determine the time, place, and conditions under which alcoholic beverages are consumed on university property. Events at which alcoholic beverages are served require evidence of a properly issued state alcohol permit. Persons violating state law with respect to possession and consumption of alcohol are subject to citation, arrest or exclusion from the campus. The ISU policy on alcohol, drugs, and other intoxicants may be found in the policy library.

13.17(3) Food and beverages shall be consumed in academic buildings only in areas designated by the responsible departmental supervisor.

[ARC 8070B, IAB 8/26/09, effective 9/30/09]

681—13.18(262) Animals on campus.

13.18(1) All livestock and other domesticated animals, including but not limited to fowl, cats, dogs, cows, horses, mules, sheep, goats, swine, or reptiles, when on university property, must be kept confined or otherwise physically constrained. Any such animal found running at large on university grounds or found within university facilities and not part of a university-sponsored research program or project may be impounded. Consistent with the laws of the state of Iowa, such animals may be turned over to a city pound or other appropriate state or university agency.

13.18(2) For sanitation and safety reasons, except as provided below, animals are not permitted in university buildings. This prohibition shall not apply to animals that are:

- a. Specially trained for and under the control of an individual with disabilities.
- b. Used for teaching and research purposes.
- c. Receiving treatment at the Lloyd Veterinary Medical Center or other approved facility.

13.18(3) Pets are permitted on the campus in outdoor areas when properly controlled and confined and when their presence does not jeopardize the safety or sanitation of university facilities or grounds or the safety of individuals on the campus. In the case of pets such as dogs, proper confinement shall consist of a cage or a leash of sufficient strength to restrain the dog held by a person competent to govern the behavior of the dog.

a. Any pets brought on the campus must be properly licensed and vaccinated under the laws of Iowa, and tags indicating such license and vaccination shall at all times be attached to the collar of the pet.

b. In those cases in which impoundment is necessary, the owner of the animal or its claimant shall be personally responsible for all costs associated with reclaiming the animal.

c. Any person who walks an animal on public areas of the campus shall be responsible for the control and behavior of the animal, as well as the prompt collection and disposal of the solid waste excreted by that animal.

[ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.19(262) Authority to order persons off the campus. Any person violating university regulations may have the person's permission to remain in or on university premises revoked. A person who does not voluntarily leave, or who immediately returns, is subject to arrest for trespassing under state law. A person who has engaged in serious or repeat violations of university regulations, who has committed crimes, or who has endangered other persons may be banned by the director of public safety or the director's designee from all or part of the campus. Such orders shall be issued in writing. Any person who is subject to such an order may appeal such action to the senior vice president for business and finance, who shall promptly handle the appeal. A person who violates such orders is subject to arrest and prosecution for trespassing.

[ARC 1078C, IAB 10/2/13, effective 11/6/13]

These rules are intended to implement Iowa Code sections 17A.3 and 262.9.

[Filed 6/30/75]

[Filed 12/22/76, Notice 11/17/76—published 1/12/77, effective 2/16/77]

[Filed emergency after Notice 10/17/78, Notice 8/23/78—published 11/1/78, effective 10/17/78]

[Filed emergency 8/13/80—published 9/3/80, effective 8/15/80]

[Filed 8/28/80, Notice 2/20/80—published 9/17/80, effective 10/22/80]

[Filed 3/29/88, Notice 2/10/88—published 4/20/88, effective 5/25/88]

[Filed 9/30/88, Notice 8/10/88—published 10/19/88, effective 1/18/89]

[Filed 5/25/89, Notice 3/22/89—published 6/14/89, effective 7/19/89]

[Filed 5/19/95, Notice 4/12/95—published 6/7/95, effective 7/12/95]

[Filed 11/23/99, Notice 4/7/99—published 12/15/99, effective 1/19/00]

[Filed 7/19/02, Notice 5/15/02—published 8/7/02, effective 9/11/02]

[Filed ARC 8070B (Notice ARC 7905B, IAB 7/1/09), IAB 8/26/09, effective 9/30/09]

[Filed ARC 1078C (Notice ARC 0818C, IAB 7/10/13), IAB 10/2/13, effective 11/6/13]

[Filed ARC 2672C (Notice ARC 2540C, IAB 5/25/16), IAB 8/17/16, effective 9/21/16]

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Created by 1992 Iowa Acts, chapter 1140, section 8
[Prior to 8/21/91, see Veterans Affairs Department[841]]
[Prior to 1/6/93, see Veterans Affairs Division[613]]

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[Prior to 2/29/84, Social Services[770] Ch 134]

[Prior to 2/11/87, Human Services[498] Ch 10]

[Prior to 1/20/93, Human Services[441] Ch 10]

PREAMBLE

The Iowa Veterans Home is a long-term health care facility located in Marshalltown, Iowa, with oversight provided by the commission of veterans affairs.

801—10.1(35D) Definitions relevant to Iowa Veterans Home. The following definitions are unique to rules pertaining to the Iowa Veterans Home.

“Acute alcoholic” means any disturbance of emotional equilibrium caused by the consumption of alcohol resulting in behavior not currently controllable.

“Acutely mentally ill” means any disturbance of emotional equilibrium manifested in maladaptive behavior and impaired functioning caused by genetic, physical, chemical, biological, psychological, social or cultural factors which requires hospitalization.

“Addicted to drugs” means a state of dependency as medically determined resulting from excessive or prolonged use of drugs as defined in Iowa Code chapter 124.

“Admissions committee” means the committee appointed by the commandant to review applications to determine eligibility for admission and appropriate level and category of care.

“Admissions coordinator” means the individual responsible for the coordination of the admissions process.

“Applicant” means a person who is applying for admission into the Iowa Veterans Home.

“Assets” means items of value held by, or on behalf of, an applicant or member. Assets include, but are not limited to, cash, savings and checking accounts; stocks; bonds; contracts for sale of property; homestead or nonhomestead property. Nonrecurring windfall payments such as, but not limited to, inheritances; death benefits; insurance or tort claim settlements; and cash payments received from the conversion of a nonliquid asset to cash shall be considered assets upon receipt.

“At once” or *“timely”* means within ten calendar days.

“Collaborative care plan” means the plan of care developed for a member by the interdisciplinary resident care committee.

“Commandant” means the chief executive officer of the Iowa Veterans Home.

“Commission” means the Iowa commission of veterans affairs.

“Continuously disruptive” means any behavior, on a recurring basis, which has been documented by Iowa Veterans Home staff, that causes harm to a member or staff or conflicts with the member responsibilities set forth in subrule 10.12(1).

“Countable asset” means an asset to be considered in calculation of member support obligation.

“Dangerous to self or others” means any activity by a member which would result in injury to the member or others.

“Dependent” means a person for whose financial support an applicant or member is legally responsible or obligated.

“Diversion” means income that is transferred to a spouse before the member support is determined.

“DVA” means the U.S. Department of Veterans Affairs.

“Free time” means 12 days of leave time each calendar year for which the member is not charged for care during absence.

“Full support rate” means the maximum daily rate of support times the billable days of care received in any month less any offsets.

“Gold Star parent” means a parent of a deceased member of the United States armed forces who died while serving on active duty during a time of military conflict or who died as a result of such service.

“Honorable discharge” means separation or retirement from active military service. The veteran must be eligible for medical care in the DVA system (excluding financial eligibility). Honorable discharge includes general discharges under honorable conditions.

“Income” means money gained by labor or service, or money paid periodically to an applicant or member. Income includes, but is not limited to, disability, retirement pensions or benefits; interest, dividends, payments from long-term care insurance, or other income received from investments; income from property rentals; certain moneys related to real estate contracts; earnings from regular employment or self-employment enterprises.

“Interdisciplinary resident care committee” or *“IRCC”* means the member, a social worker, a registered nurse, a dietitian, a medical provider, a recreation specialist and a mental health provider, as required, who are involved in reviewing a member’s assessment data and developing a collaborative care plan for the individual member.

“IVH” means the Iowa Veterans Home.

“Legal representative” for purposes of applicant or member personal and care decisions means durable power of attorney for health care, guardian, or next-of-kin (spouse, adult children, parents, adult siblings), as provided in Iowa Code chapters 144A, 144B, and 633. For applicant or member financial decisions, *“legal representative”* means conservator, power of attorney, fiduciary or representative payee.

“Licensed nursing home administrator” means a duly licensed nursing home administrator pursuant to Iowa Code chapter 147.

“Medical provider” means a doctor of medicine or osteopathic medicine who is licensed to practice in the state of Iowa. Except as defined by Iowa law, a medical provider also means an advanced registered nurse practitioner or physician assistant who is licensed to practice in the state of Iowa.

“Member” means a resident of IVH.

“Member support” means the dollar amount which is billed monthly to the member or legal representative for the member’s care.

“PASRR” means preadmission screening and resident review.

“Resource” means assets and income.

“Spouse” means a person who is the legal or common-law wife or husband of a veteran.

“Surviving spouse” means a person who is the legal or common-law widow or widower of a veteran.

“Therapeutic activity” means an activity that is considered as treatment. A therapist shall determine that a particular activity is beneficial to the well-being of a member and shall include this determination in the member’s plan of care.

“Veteran” means a person who served in the active military and who was discharged or released therefrom under honorable conditions. Honorable and general discharges qualify a person as a veteran. The veteran must be eligible for medical care in the DVA system (excluding financial eligibility).

In addition, veteran includes a person who served in the merchant marine or as a civil service crew member between December 7, 1941, and August 15, 1945.

“Voluntary discharge” means a member wishes to terminate the member’s association with IVH on a permanent basis. This includes discharge for medical reasons which have been approved by a qualified medical provider. All other discharges are involuntary.

[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 9689B, IAB 8/24/11, effective 9/28/11; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.2(35D) Eligibility requirements. Veterans, spouses of veterans, and Gold Star parents shall be eligible for admission to IVH in accordance with the following:

10.2(1) Veterans shall be eligible for admittance to IVH in accordance with the following conditions:

a. The individual is disabled by reason of disease, injury or old age and meets the qualifications for nursing or residential level of care available at IVH.

b. The individual cannot be competitively employed on the day of admission or throughout the individual’s residency.

c. The individual shall have met the residency requirements of the state of Iowa on the date of admission to IVH.

d. An individual who has been diagnosed by a qualified health care professional as acutely mentally ill, as an acute alcoholic, as addicted to drugs, as continuously disruptive, or as dangerous to self or others shall not be admitted to or retained at IVH.

e. The individual must be eligible for care and treatment at a DVA medical center (excluding financial eligibility).

f. Individuals admitted to the domiciliary level of care must meet DVA criteria stated in Department of Veterans Affairs, State Veterans Homes, Veterans Health Administration, M-1, Part 1, Chapter 3.11(h) (1), (2), and (3), and have prior DVA approval if the individual's income level exceeds the established cap.

g. Homelessness does not disqualify persons otherwise eligible for admission to IVH.

10.2(2) Spouses and surviving spouses shall be admitted in accordance with the following:

a. The spouse or surviving spouse shall have been married to a veteran for at least one year preceding date of application or date of death of veteran.

b. The spouse of a veteran is eligible for admittance to IVH only if the veteran is admitted.

c. The surviving spouse of a deceased veteran is eligible for admittance to IVH if the deceased veteran would also be eligible for admittance to IVH if still living.

d. Spouses, surviving spouses and Gold Star parents admitted to IVH shall not exceed more than 25 percent of the total number of members at IVH as provided in U.S.C. Title 38.

10.2(3) A Gold Star parent shall be eligible for admittance in accordance with the following conditions:

a. The parent's child died while serving on active duty in the armed forces of the United States during a time of military conflict or died as a result of such service.

b. The individual is disabled by reason of disease, injury or old age and meets the qualifications for nursing or residential level of care available at IVH.

c. The individual cannot be competitively employed on the day of admission or throughout the individual's residency.

d. The individual shall have met the residency requirements of the state of Iowa on the date of admission to IVH.

e. An individual who has been diagnosed by a qualified health care professional as acutely mentally ill, as an acute alcoholic, as addicted to drugs, as continuously disruptive, or as dangerous to self or others shall not be admitted to or retained at IVH.

f. Gold Star parents, spouses and surviving spouses admitted to IVH shall not exceed more than 25 percent of the total number of members at IVH as provided in U.S.C. Title 38.

10.2(4) An individual who was not a member of the United States armed forces may be eligible for admittance in accordance with the limitations described in subrule 10.2(1), if the following conditions are met:

a. The individual was a member of the armed services of a nation with which the United States was allied during a time of conflict.

b. The individual is eligible for admission to a DVA medical center in accordance with U.S.C. Title 38, Chapter 17, Medical Care, Subchapter 2, Section 1710.

[ARC 9689B, IAB 8/24/11, effective 9/28/11; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter]

801—10.3(35D) Application. All applicants shall apply for admission to IVH in accordance with the following subrules:

10.3(1) All applicants shall make application to IVH through the county commission of veterans affairs in the applicant's county of residence.

10.3(2) Application shall be made on the "Veteran Application for Admission to the Iowa Veterans Home," Form 475-0409, the "Spouse's Application for Admission to the Iowa Veterans Home," Form 475-0410, or the "Gold Star Parent Application for Admission to the Iowa Veterans Home," Form 475-2044. Separate applications shall be required for an eligible veteran and the spouse of the veteran when both veteran and spouse are applying for admission. The applications may be obtained at:

a. The county commission of veterans affairs' office.

b. DVA medical centers located in or serving veterans in the state of Iowa.

c. IVH.

d. Web site: www.iowaveteranshome.org.

10.3(3) The applicant shall be scheduled for a physical examination by a medical provider, and the results of the examination shall be entered on the application by the examining medical provider. If the applicant has had a complete physical examination within three months of application, a copy of this physical shall suffice. Information must be authenticated by the medical provider's original signature or electronic signature.

10.3(4) The following items shall be attached to the application before it is forwarded to IVH:

a. An affidavit signed by two members of the county commission of veterans affairs and notarized by the appropriate county official attesting to the best of their knowledge and belief that the applicant is a resident of that county and is an eligible applicant.

b. A copy of the veteran's honorable discharge from the armed forces of the United States.

c. If the applicant is a married or surviving spouse, a copy of the marriage certificate or evidence of a common-law marriage on which a prudent person would rely.

d. If the applicant is a Gold Star parent, a copy of the child's birth certificate and certification of the child's death while serving on active duty in the armed forces of the United States during a time of military conflict.

e. A copy of the applicant's birth certificate.

f. A copy of divorce decrees or death certificate for the spouse, if applicable.

g. A completed "Personal Functional Assessment," Form 475-0837.

h. A completed "Supplement to Application for Admission to the Iowa Veterans Home," Form 475-0843.

i. A completed "Financial Affidavit," Form 475-0839.

10.3(5) Once the requirements of subrules 10.3(2), 10.3(3) and 10.3(4) have been met, the county commission of veterans affairs shall forward the completed application to the admissions office at IVH. No county shall require additional requirements for the application for admission beyond the requirements stated in these rules. Neither shall a county require additional forms to be filled out or provided by the applicant other than the forms required by these rules.

10.3(6) Eligibility determinations are subject to approval by the commandant or designee.

[ARC 9689B, IAB 8/24/11, effective 9/28/11; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.4(35D) Application processing.

10.4(1) Applications received by the admissions office shall be reviewed for completeness. The county commission of veterans affairs shall be required to submit additional information if needed.

10.4(2) The admissions committee shall assign the level of care required by the applicant. If a special care unit or treatment is required, this shall be designated. If there is a question regarding the level of care for which the applicant qualifies, the applicant shall be scheduled for either a preadmission visit with appropriate staff or a site visit in order to make a determination of appropriate level of care.

10.4(3) Regardless of whether or not the applicant can be immediately admitted, the applicant shall be notified by the admissions coordinator of the applicant's designated level of care. An applicant who does not wish to be admitted to the designated level of care may submit evidence to show that another level of care may be more appropriate. However, once the admissions committee makes a final determination, the applicant who does not wish to be admitted under the designated level of care may withdraw the application or have the application denied.

10.4(4) When space is not immediately available in the level of care assigned or on the appropriate special care unit, the applicant's name shall be placed on the appropriate waiting list for that level of care or special care unit in the order of the date the application was received.

10.4(5) When space is available at time of application, or when space becomes available in accordance with the designated waiting list, the applicant shall be scheduled for admittance to IVH as follows:

a. An applicant whose physical examination or personal functional assessment, or both if applicable, was completed more than three months prior to the scheduled date of admittance may be required to obtain another physical examination by a medical provider or complete a current personal

functional assessment, or both if applicable. This information shall be reviewed to determine that the applicant is capable of functioning at the previously determined level of care.

b. An applicant who requires a different level of care than previously determined shall be admitted to the level of care required if a bed is available or shall have the applicant's name placed on the waiting list for the appropriate level of care in accordance with the date the original application was received.

c. Prior to an applicant's admission to a nursing care unit, the PASRR shall be received.
[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.5(35D) Applicant's responsibilities. Prior to admission to IVH, the applicant or a person acting on the applicant's behalf shall:

10.5(1) Report any change in the applicant's condition that could affect the previously determined level of care.

10.5(2) Report changes in mailing address, county or state of residency.

10.5(3) Provide additional information, verification or authorization for verification concerning the applicant's circumstances, condition of health, and resources if required.

10.5(4) Participate in a preadmission evaluation for level of care if required.

801—10.6(35D) Admission to IVH.

10.6(1) The applicant shall be notified by the admissions coordinator to appear for admission to IVH.

10.6(2) Upon arrival at IVH, the applicant or legal representative shall meet with the admissions office and resident finance office for an admission interview.

10.6(3) During the interview in the admissions office with the admissions coordinator, the following items will be reviewed and signed by the applicant or legal representative:

a. Permission for Treatment, Form 475-0814.

b. The "Contractual Agreement," Form 475-1833.

10.6(4) During the interview with the resident finance office, the accounting technician will review the following items with the applicant or legal representative:

a. The applicant's resources.

b. The member support, billing process and banking services.

10.6(5) An applicant becomes a member at that point in time when the applicant or legal representative signs and dates the "Contractual Agreement," Form 475-1833, or otherwise authorizes, in writing, acceptance of the terms of admittance specified in the Contractual Agreement.

10.6(6) Each member shall be placed on a unit providing the appropriate level of care based on individual needs.

a. A member requiring a subsequent change in placement based on individual care needs shall be transferred to a unit which provides the appropriate level of care within the scope of its licensure.

b. Members shall have priority over new admissions for placement on a unit when a vacant bed becomes available.

10.6(7) Care at IVH shall be provided in accordance with Iowa Code chapter 135C; 481—Chapter 57, Residential Care Facilities; 481—Chapter 58, Nursing Facilities; and DVA State Veterans Homes, Veterans Health Administration, M-5, Part 8, Chapter 2, Procedure for Obtaining Recognition of a State Veterans Home and Applicable Standards, 2.07, Standards for Nursing Care, and 2.08, Standards for Domiciliary Care, November 4, 1992.

[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.7 to 10.10 Reserved.

801—10.11(35D) Member rights.

10.11(1) Member rights shall be in accordance with those listed in 481—Chapter 57 for members residing in the residential care facility level of care, those listed in 481—Chapter 58 for members residing in the nursing facility level of care, and those noted in Department of Veterans Affairs, State Veterans Homes, Veterans Health Administration, pertaining to residents of state veterans homes.

10.11(2) A member has the right to share a room with the member's spouse when both members consent to the arrangement.

10.11(3) If a member is incompetent and not restored to legal capacity, or if the medical provider determines that a member is incapable of understanding and exercising these rights, the rights devolve to the member's legal representative.

10.11(4) In some cases, a member may be determined to be in need of an agent by the DVA, the Social Security Administration or a similar funding source. In these cases, the commandant or designee may serve as agent subject to Iowa Code section 135C.24. All rights and responsibilities regarding the financial awards shall devolve to the commandant or designee.

[ARC 9689B, IAB 8/24/11, effective 9/28/11; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.12(35D) Member responsibilities.

10.12(1) The member or legal representative has the responsibility:

- a.* To timely report the existence of or changes in the member's income, spouse's income, assets or marital status, including the conversion of nonliquid assets to liquid assets.
- b.* To apply for all benefits due (such as, but not limited to, Title XIX, DVA pension, DVA compensation, Social Security, private pension programs, or any combination), and accept the available billing programs offered at IVH.
- c.* To provide information concerning the physical condition and, to the best of the member's knowledge, accurate and complete information concerning present physical complaints, past illnesses, hospitalizations, medications and other matters related to the member's health.
- d.* To report unexpected changes in the member's condition to the attending medical provider or other clinician.
- e.* To participate in treatment planning, cooperate with the treatment team in carrying out the treatment plan, and to participate in the evaluation of the member's care.
- f.* To be considerate of the rights of other members and staff and control behavior in respect to smoking, noise, and number of visitors.
- g.* To treat other members and staff with dignity and respect.
- h.* To respect the property of other members, staff, and IVH. A member or legal representative may be held financially responsible for any property damaged or destroyed by the member.
- i.* To ask questions about anything that the member may not understand about the member's care or IVH.
- j.* To accept the consequences of the member's actions if the member refuses treatment or fails to follow prescribed care.
- k.* To follow the rules and regulations of IVH regarding member care and conduct as set out in subrule 10.40(1).
- l.* To keep scheduled appointments with staff. If unable to do so, the member is responsible for notifying appropriate staff.
- m.* To maintain personal hygiene, including clothing, and maintain personal living area based on the member's physical and mental capabilities.
- n.* To follow all fire, safety and sanitation regulations as established by IVH and applicable regulatory agencies.
- o.* To provide information and verification of resources. A member or legal representative must fulfill the member support obligation for member health care.
- p.* To carry Medicare Part B and Medicare Part D insurance if eligible. IVH shall buy the medical insurance portion of Medicare Part B and Medicare Part D if the member is not eligible to receive Medicare under social security.
- q.* To delegate to IVH the authorization to enroll the member in Medicare Part B and Medicare Part D. The premium shall be deducted from the member's social security or paid monthly with the member's funds.

r. To assign the benefits of Medicare Part B, Medicare Part D and other medical insurances to IVH. The cost of Medicare Part B, Medicare Part D and other medical insurances shall be used as an offset to the aggregate semiannual per diem rate calculation according to the particular level of care as calculated in January and July of each year for the preceding six months and effective March 1 and September 1.

10.12(2) The member or legal representative is responsible for the full payment of the member's support charges within the calendar month that the monthly support bill is received. Failure to pay a monthly support bill within 30 days of issuance may result in discharge from IVH unless prior arrangements have been made.

10.12(3) In those instances when a legal representative is responsible for the handling of the member's resources, the legal representative shall keep any records necessary and provide all information or verification required for the computation of member support as set out in rule 801—10.14(35D). Failure of the legal representative to do so may result in the discharge of the member. In some cases, IVH may act to have the commandant or designee established as the member's fiduciary or agent as set out in subrule 10.11(4). In those cases when a guardian or conservator of a member fails to keep necessary records or provide needed information or verification or to meet the member support obligation, IVH may notify the court of problems and request to establish another individual as guardian or conservator. The conservator of a member shall submit a copy of the annual conservatorship report to IVH.

10.12(4) When a member temporarily needs a level of care that is not offered by IVH, the member shall be referred by IVH medical staff to a DVA medical center or other medical facility.

a. If a member who is treated at a DVA medical center has coinsurance to supplement Medicare, this coinsurance shall be used for the DVA medical center charges. IVH shall be responsible for all DVA medical center charges if the member does not carry coinsurance supplement.

b. If a member chooses a medical facility other than a DVA medical center or other medical facility as referred by IVH medical staff, the member is responsible for costs resulting from care at the medical facility chosen.

[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.13 Reserved.

801—10.14(35D) Computation of member support. As a condition of admittance to and residency in IVH, each member is required to contribute toward the cost of that member's care based on that member's resources and ability to pay.

10.14(1) A monthly member support bill shall be sent to the member or legal representative charging the member for care in the previous month with any necessary adjustment for prior months. A member shall be required to pay member support charges from the member's liquid assets and long-term care insurance benefits and from the member's income. The monthly member support charge shall be the billable days, as set out in subrule 10.14(3), multiplied by the appropriate per diem from rule 801—10.15(35D). This amount shall be reduced by any offsets as set out in subrules 10.15(2) and 10.15(3). The member or legal representative shall pay an amount not to exceed the amount calculated based on the resources available for the cost of care as set out in this chapter.

10.14(2) Title XIX residents. If a member is certified as eligible and participating in the Title XIX program, the amount of payment shall be determined by the department of human services income maintenance worker.

10.14(3) Billable days (non-Title XIX). Billable days for members not participating in the Title XIX program shall be counted as follows:

a. All days in the month for which the member received care (in-house).

b. All leave days in excess of the 12 free days up through the fifty-ninth leave day. Any leave days in excess of 59 days shall be considered billable, and the member must pay the full support rate, not the amount determined by resources.

c. The first ten days of each hospitalization. On the eleventh day the member's bed shall be held without charge until the termination of hospital stay and member returns to IVH. A hospital stay may occur more than once in a calendar year.

[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.15(35D) Per diems.

10.15(1) For members not participating in the Title XIX program, the per diem by which the billable days shall be multiplied shall be established as follows:

a. *Nursing level of care.*

(1) The charge for care is the per diem rate calculated in January and July of each year for the preceding six-month period and is submitted by IVH to the Iowa Medicaid enterprise of the department of human services.

(2) The updated per diem rate shall be effective semiannually on March 1 and September 1 of each year.

(3) Members or financial legal representatives shall be sent a notice one month in advance of the rate change.

b. *Domiciliary level of care.*

(1) The total cost of care per member shall be determined in January and July of each year for the preceding six-month period and calculated in a manner similar to the nursing level of care. This cost shall be the updated per diem rate.

(2) The per diem rate shall be adjusted semiannually on March 1 and September 1 of each year.

(3) Members or financial legal representatives shall be sent a notice one month in advance of the rate change.

10.15(2) Veteran members for whom IVH receives a per diem from the DVA (under Title 38). IVH shall consider this per diem as a third-party reimbursement to the charge for care and shall be an offset to the member support bill. The offset of the per diem received (billed to DVA) shall be shown as an offset for the month billed. The provisions of 38 U.S.C. 1745(a), which were established by Section 211 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109-461), set forth a mechanism for paying a higher per diem rate for certain veterans who have service-connected disabilities and are receiving nursing home care in state homes. If IVH receives this higher per diem rate from the DVA, the member will not have a support charge from IVH.

10.15(3) The daily per diem charge shall be reduced by an amount equal to the appropriate Medicare Part B and Medicare Part D premiums paid by the enrolled member.

10.15(4) For members carrying other medical insurance upon admission and continuing to carry other medical insurance after admission. The member support charge shall be reduced by an amount equal to the other medical insurance premium.

10.15(5) For members not eligible for Title XIX medical assistance. The member support charge shall be reduced in accordance with subrules 10.15(2), 10.15(3) and 10.15(4), if applicable. The member shall then contribute all remaining available resources up to the charge for care.

Members receiving DVA pension and aid and attendance shall be considered as having used the amount equal to aid and attendance first in payment for their care at IVH.

10.15(6) Payment of support is due within ten business days after the monthly support bill is received or ten business days after the member's last income deposit for that month.

a. If payment is not received by IVH within 30 days following the due date, a notice of discharge may be issued.

b. If there are extenuating circumstances, the member or legal representative should meet with the commandant or designee to work out a schedule of payments.

[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.16(35D) Assets. The following rules specify the treatment of assets, as defined in rule 801—10.1(35D), in the payment of member support as described in rule 801—10.14(35D). Only liquid assets shall be considered in the payment of member support.

10.16(1) For members who have applied for and are eligible to receive Title XIX medical assistance, rule 441—75.5(249A) shall apply. Financial eligibility for Title XIX shall be determined by the department of human services income maintenance worker.

10.16(2) For members not eligible for Title XIX medical assistance, the following rules apply:

a. Assets considered. The assets considered shall include all assets owned by the member, or if married, both the member and the spouse living in the community, except for the following:

(1) The homestead is exempt as follows: The exempt homestead is defined as the house, used as a home, and may contain one or more contiguous lots or tracts of land, including buildings and appurtenances. Contiguous means that portions of the homestead cannot be separated from the home by intervening property owned by others. However, the homestead is considered contiguous if portions of it are separated from the home only because of roads or other public rights-of-way. Property that is not exempt as part of the homestead shall be treated in accordance with the rules of this chapter.

The homestead, as defined, can retain its exempt status for a period of time not to exceed 36 months, while the member, spouse and dependents are temporarily absent, provided the following conditions are met:

1. There is a specific purpose for the absence.
2. The member, spouse or dependents intend to return to the homestead when the reason for the absence has been accomplished.
3. The member, spouse or dependents can reasonably be expected to return to the home during the 36-month time limitation.
4. If a person is an applicant at the time the homestead becomes vacant due to the absence of the applicant, spouse or dependents, the first month of the 36-month period is the month of admission to IVH.
5. If a person is a member when the homestead becomes vacant due to the absence of the member, spouse or dependents, the first month of the 36-month period is the month following the month in which the homestead is vacated.
6. Any homestead that does not qualify for this exemption or any homestead that is vacant for a period of time exceeding the 36-month limit shall be treated in accordance with subrule 10.16(3).
- (2) Household goods, personal effects and one motor vehicle.
- (3) The value of any burial spaces held for the purpose of providing a place for the burial of the member, spouse or any other member of the immediate family.
- (4) Exempt income-producing property includes, but is not limited to, tools, equipment, livestock, inventory and supplies, and grain held in storage.
- (5) Other property essential to the means of self-support of either the member or spouse as to warrant its exclusion under the Supplemental Security Income program.
- (6) Assets of a blind or disabled person who has a plan for achieving self-support as determined by the division of vocational rehabilitation or the department of human services.
- (7) Assets of Native Americans belonging to certain tribes arising from judgment fund and payments from certain land and subsurface mineral rights. This does not include per capita payments from casino proceeds.
- (8) Any amounts arising from Public Law 101-239 which provides assistance to veterans under the Agent Orange product liability litigation.
- (9) Assistance under the Disaster Relief Act and Emergency Assistance Act or other assistance provided pursuant to federal statute as a result of a presidential disaster declaration and interest earned on these funds for the nine-month period beginning on the date these funds are received or for a longer period where good cause is shown.
- (10) An amount that is irrevocable and separately identifiable, having a principal amount not in excess of a predetermined amount set by the department of human services, without an itemized billing, for the member or spouse to meet the burial and related expenses of that person.
- (11) Federal assistance paid for housing occupied by the spouse living in the community.

(12) Assistance from a fund established by a state to aid victims of crime for nine months from receipt when the client demonstrates that the amount was paid as compensation for expenses incurred or losses suffered as a result of a crime.

(13) Relocation assistance provided by a state or local government to a member or spouse comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which is subject to the treatment required by Section 216 of the Act.

(14) Any other asset excluded by statute.

b. Assets of a single member. When liquid assets not exempted in paragraph “a” above are equal to or exceed \$2,000, those liquid assets shall be considered an available resource for the payment of member support. These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least \$140.

c. Assets of a married member with spouse in a care facility. If a member’s spouse is residing in a nursing facility, the member shall be treated as a single member for asset determination purposes. If the member and the spouse become members of IVH on the same day, all resources of both members shall be added together and split one-half to each member for asset determination purposes. If the spouse is residing in a residential care facility, the rules pertaining to a spouse living in the community apply.

d. Assets of a married member with spouse living in the community. When liquid assets not exempted in paragraph “a” above are equal to or exceed \$2,000, those liquid assets shall be considered an available resource for the payment of member support. These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least \$140.

The assets attributed to the member shall be determined from the documented assets of both the member and spouse living in the community as of the first day of admission to IVH. All resources of both the member and the spouse shall be added together. If the total resources are less than \$24,000 (the amount set by 441 IAC 75.5(3) “d” and “f,” Public Law 100-365 and Public Law 100-485), then that amount shall be protected for the spouse living in the community. If applicable, the next \$24,000 shall be awarded to the member. Any resources over \$48,000 shall be split one-half to the member and one-half to the spouse up to a predetermined amount set by the department of human services. All resources over the predetermined amount shall be awarded to the member unless it is determined that the member would never be eligible for Medicaid benefits; in this circumstance, assets will be split one-half to the member and one-half to the spouse. Other resources attributed to the spouse living in the community shall be determined by the department of human services through the attribution process.

(1) If the member has transferred assets to the spouse living in the community under a court order for the support of the spouse, the amount transferred shall be the amount attributed to the spouse to the extent it exceeds the specified limits above.

(2) After the month in which the member is admitted, no attributed resources of the spouse living in the community shall be deemed available to the member during the continuous period in which the member is at IVH. Resources which are owned wholly or in part by the member and which are not transferred to the spouse living in the community shall be counted in determining member support. The assets of the member shall not count for member support to the extent that the member intends to transfer and does transfer the assets to the spouse living in the community within 90 days.

(3) Report of results. The department of human services shall provide the member and spouse and legal representative, if applicable, a report of the results of the attribution. The report shall state that either has a right to appeal the attribution in accordance with rule 801—10.45(35D).

e. Exception based on estrangement. When it is established by a disinterested third-party source and confirmed by the commandant or designee that the member is estranged from the spouse living in the community, member support shall be determined on the basis of resources of a single member.

10.16(3) When a member owns an available, nonliquid, nonexempt asset, the value of which would affect the computation of member support as described in rule 801—10.14(35D), the asset shall be liquidated. The value of that asset shall be considered in the computation of member support. The following paragraphs are to be considered when liquidating assets:

a. Net market value, or equity value, is the gross price for which property or an item can be sold on the open market less any legal debts, claims or liens against the property or item. IVH shall consider the condition and location of an item or property and local market conditions in determining the gross sales price of the item or property. In order for a loan or claim to be considered a lien or encumbrance against an asset, the loan or claim must be made under circumstances that result in the creditors having a recorded legal right to satisfy the debt.

b. An asset must be available in order for it to be treated in accordance with the rules of this chapter. An asset is considered available when:

(1) The member owns the property in part or in full and has control over it; that is, it can be occupied, rented, leased, sold or otherwise used and disposed of at the member's discretion; and

(2) The member has a legal interest in a liquidated sum and has the legal ability to make the sum available for member support.

c. A member must take all appropriate action to gain title and control of any asset of which the value would affect the computation of member support.

d. The value of the asset may be adjusted if the member or legal representative:

(1) Advertises the asset for sale, through appropriate methods, on a continual basis.

(2) Lists the asset with a real estate broker or other agent appropriate to the asset.

(3) Asks a reasonable price which is consistent with the asking price of similar items of property in the community.

(4) Does not refuse a reasonable offer.

(5) Does not sell the asset for an unreasonably low price.

e. Cash proceeds from the sale of an asset, conversion of an asset to cash, or receipt of any cash asset as defined in rule 801—10.1(35D) shall be used in the computation of member support beginning with the calendar month of receipt.

[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 9689B, IAB 8/24/11, effective 9/28/11; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.17(35D) Divestment of assets.

10.17(1) “Intentional divestment of assets” means:

a. To knowingly sell, give or transfer by member or legal representative for less than fair market value, any asset, the value of which would affect member support; or

b. To knowingly and voluntarily place an asset, the value of which would affect member support, under a trust or other legal instrument that ends or limits the availability of that asset.

10.17(2) Transfers of resources shall be presumed to be divestiture unless the individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose. In addition to giving away or selling assets for less than fair market value, examples of transferring resources include, but are not limited to, establishing a trust, contributing to a charity or other organization, removing a name from a joint bank account, or decreasing the extent of ownership interest in a resource or any other transfer as defined in the Supplemental Security Income program.

a. Convincing evidence to establish that the transaction was not a divestiture may include documents, letters, and contemporaneous writings, as well as other circumstantial evidence.

b. In rebutting the presumption that the transfer was a divestiture, the burden of proof is on the individual to establish:

(1) The fair market value of the compensation;

(2) That the compensation was provided pursuant to an agreement, contract, or expectation in exchange for the resource; and

(3) That the agreement, contract, or expectation was established at the time of transfer.

10.17(3) An applicant or legal representative shall not knowingly and intentionally divest an asset, as set out in subrule 10.17(1), within the period established by Title XIX statute prior to admission, with the intention of reducing the applicant's member support or of obtaining admission to IVH.

When it is determined by the commandant or designee that an applicant did intentionally divest an asset, upon admission that applicant shall be charged member support as if divestment did not occur.

10.17(4) A member or legal representative shall not knowingly and intentionally divest an asset, as described in subrule 10.17(1), while a member with the intention of reducing the member support.

When it is discovered that a member or legal representative improperly divested an asset(s), that member shall be charged member support as if divestment did not occur.

801—10.18(35D) Commencement of civil action. The commandant or designee may file a civil action for money judgment against a member or discharged member or the member's legal representative for support charges when the member or discharged member fails to pay member support in accordance with 801—Chapter 10.

801—10.19(35D) Income. This rule describes the treatment of income, as defined at rule 801—10.1(35D), in the computation of member support as described at rule 801—10.14(35D).

10.19(1) For members who are eligible for Title XIX medical assistance, rule 441—75.5(249A) shall apply. For those members participating in the Title XIX medical assistance program, the difference between the \$140 personal needs allowance and the Title XIX personal needs allowance shall be returned to the member out of individual member participation.

10.19(2) For members who are not eligible for Title XIX, the following shall apply:

- a.* The following types of income are exempt in the computation of member support:
 - (1) The earned income of the spouse or dependents.
 - (2) Unearned income restricted to the needs of the spouse or dependents (social security, DVA, etc.).
 - (3) Any other income that can be specifically identified as accruing to the spouse or dependents.
 - (4) Nonrecurring gifts, contributions or winnings, not to exceed \$60 in a calendar quarter.
 - (5) Interest income of less than \$20 per month from any one source.
 - (6) State bonus for military services.
 - (7) Any earnings received by a member for that member's participation in money-raising activities administered by veterans' organizations or auxiliaries (i.e., poppies).
 - (8) Any money received by a member from the sale of items resulting from a therapeutic activity (i.e., items sold in the IVH gift shop).
 - (9) The first \$150 received by a member in a month for participation in the incentive therapy or other programs as described in rule 801—10.30(35D), for members in the domiciliary level of care. For members in the nursing level of care, the first \$75 shall be exempted.
 - (10) Personal loans.
 - (11) In-kind contributions to the member.
 - (12) Title XIX payments.
 - (13) Yearly DVA compensation clothing allowance for those who qualify.
 - (14) Other income as specifically exempted by statute.
 - (15) Any income similar in its origin to the assets excluded in subparagraphs 10.16(2) "a"(6) and (7).
 - (16) Income from employment as outlined in the IVH discharge planning policy (IVH policy #265).
- b.* Personal needs allowance. All members shall have an amount exempted from their monthly income intended to cover the purchase of clothing and incidentals.
 - (1) All income up to the first \$140 shall be kept as a personal needs allowance.
 - (2) The personal needs allowance shall be subtracted from the member's income prior to determination of moneys to which the spouse may be entitled.
- c.* Any type of income not specifically exempted shall be considered for the payment of member support as provided in rule 801—10.14(35D).
- d.* Determining income from property.
 - (1) Nontrust property. Where there is nontrust property, income paid in the name of one person shall be available only to that person unless the document providing income specifies differently. If payment of income is in the name of two persons, one-half is attributed to each. If payment is in the name of several persons, the income shall be considered in proportion to their ownership interest. If the

member or spouse can establish different ownership by a preponderance of evidence, the income shall be divided in proportion to the ownership.

(2) Trust property. Where there is trust property, the payment of income shall be considered available as provided in the trust. In the absence of specific provisions in the trust, the income shall be considered as stated above for nontrust property.

e. The amount of income to consider in the computation of member support shall be as follows:

(1) Regular monthly pensions and entitlements. The amount of income to be considered is the gross amount of the monthly entitlement or pension received less any medical insurance premium deductions.

(2) Investments or nonrecurring lump sum payments. Net unearned income from investments or nonrecurring lump sum payments shall be determined by deducting income-producing costs from the gross unearned income. Income-producing costs include, but are not limited to, brokerage fees, property manager's salary, maintenance costs and attorney fees.

(3) Property sold on contract. The amount of income to consider shall be the amount received minus any payments for mortgage, taxes, insurance or assessments still owed on the property and payable by the contract holder.

(4) Earned income from a rental, sole or partnership enterprise. The amount of income to consider shall be the net profit figure as determined for the Internal Revenue Service on the member's income tax return.

EXCEPTION: The deductions of the previous year's state and federal taxes and depreciation on the income tax return are not allowable deductions for the purpose of the computation of member support. If a tax return is not available, the member or legal representative shall provide all information and verification needed in order to correctly compute member support.

(5) Partnership income. The member's share of the net profit shall be determined in the same manner as the partnership percentage as determined for the Internal Revenue Service's purposes.

10.19(3) Member income diversion to dependent spouse not living at IVH. A portion of the member's income shall be diverted to the spouse according to the following:

a. Spouse living in the community. One-half the income in exclusion of an amount equal to aid and attendance and after reduction of personal needs allowance.

b. Spouse permanently in another nursing home. Member shall be treated as single. If the member is in receipt of a DVA pension, the amount of income provided the spouse would be the DVA pension dependency amount.

c. Spouses living in a residential care facility. Spouses shall be treated under the same rules as a spouse living in the community in accordance with paragraph 10.19(3) "a."

d. All current court order proceedings and guardian/conservatorship appointments regarding financial obligations shall be honored.

10.19(4) Income disbursements.

a. All diversions to spouse or valid court orders shall be mailed or sent electronically as designated or on a monthly basis.

b. All checks or electronic payments shall be sent to the proper recipient no later than the eighth day of any given month or, at IVH's option, five business days after the member's last income deposit for that month.

c. Monthly income disbursements to a community spouse may be delayed or canceled if there is an overdue amount owed for support payments.

[ARC 7890B, IAB 7/1/09, effective 7/1/09; ARC 9689B, IAB 8/24/11, effective 9/28/11; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.20(35D) Other income.

10.20(1) When a member receives regular monthly payments of unearned income, it shall be included in the resources available for the payment of member support.

10.20(2) When a member receives periodic recurring income which is received less frequently than monthly, this countable income, after the deduction of any allowable income-producing expenses, shall be considered in the month received.

10.20(3) When a member receives a nonrecurring retroactive payment from a specific entitlement source for a prior period of time, it shall be considered as income in the month received. The aid and attendance amount of the DVA pension shall be computed as a manual adjustment (available to member due to IVH nursing care).

10.20(4) Income from a particular source is considered terminated as of the date the member receives the last income payment from that source or the date that a sole or partnership enterprise ends, whichever is later.

10.20(5) When income from a particular source decreases in a calendar month, the decrease in income shall be considered in the computation of that month's member support. Income from a particular source is considered to be decreased as of the date the member receives the first income payment in the decreased amount.

10.20(6) When income from a particular source increases in a month, the increase in income shall be considered in the computation of that month's member support. Income from a particular source is considered to be increased as of the date the member receives the first income payment in the increased amount.

10.20(7) Recurring lump sum payments shall be treated as income in the month received.

10.20(8) Nonrecurring lump sum payments earned prior to admission, regardless of when received, shall not be counted as income but may be considered as an available liquid asset.

10.20(9) Any income as defined in rule 801—10.20(35D) that exceeds the member support billing for that month shall thereafter be considered a liquid asset available under rule 801—10.16(35D).

10.20(10) Employment is only allowed as identified in the IVH discharge planning policy (IVH policy #265).

[ARC 9689B, IAB 8/24/11, effective 9/28/11; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter]

801—10.21(35D) Fraud. Applicants, members or legal representatives who knowingly conceal the existence of resources may be subject to the billing of full member support, discharge for failure to pay for member's care or denial of admission. Further, members who knowingly conceal liquid assets or income which would have affected member support shall be charged for the amount not previously billed due to the fraudulent act. If upon admission it is determined that medical or other pertinent information provided during the application process was fraudulent, notice of discharge may be issued. In addition, any applicant, member or legal representative suspected of fraud may be referred to the department of inspections and appeals, division of investigations, for possible criminal or civil action. The attorney general's office shall conduct the investigation.

801—10.22(35D) Overcharges. When it is discovered that a member was charged for support in excess of the amount actually due, the member shall receive a refund or credit to the member's account. If the member is discharged or deceased, a refund shall be conveyed to the member or legal representative.

801—10.23(35D) Penalty.

10.23(1) All members who have resources in excess of the full support rate shall be charged the full support rate. If any member does not apply for all benefits due (such as, but not limited to, Title XIX, DVA pension, DVA compensation, social security, or any combination), fails to report resources accurately in order to not pay full support, or refuses to accept the available billing programs offered at IVH, that member shall be charged up to full support rate as if these responsibilities had been followed. Failure to comply with these rules may result in discharge from IVH.

10.23(2) If a member is required to pay full member support under these rules, the monthly charge shall be calculated as the per diem in paragraph 10.15(1)“a” or 10.15(1)“b” times the billable days less any offsets. The only exception to this monthly charge will be the additional amount of aid and attendance in the DVA retroactive payment for the time period of nursing care at IVH. This amount, in total, shall be due regardless of resources available. If a member is required to pay member support based on additional resources, these figures shall be obtained from the appropriate agencies.

[ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.24 to 10.29 Reserved.

801—10.30(35D) Incentive therapy and nonprofit rehabilitative programs. Members may be offered the opportunity to perform services for IVH through the incentive therapy program as part of their plan of care. Participating members shall be compensated at the state's minimum wage for their involvement in the incentive therapy program. If members enrolled in nonprofit rehabilitative programs receive an income from such programs, that income shall be treated in the same manner as the incentive therapy program or IVH policy.

This rule is intended to implement Iowa Code section 35D.7(3).
[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.31 to 10.34 Reserved.

801—10.35(35D) Handling of pension money and other funds. Each member who has not been assigned a guardian, conservator, fiduciary or representative payee or has not designated a power of attorney while having adequate decision-making capacity or as otherwise specified may manage that member's own personal financial affairs. Upon the receipt of written authorization from the member or legal representative by the commandant or designee, the commandant or designee may assist the member in the management of the member's financial affairs.

10.35(1) Pension money or other funds deposited with IVH are not assignable except as specified at subrule 10.19(3) or 10.40(2) "b"(1).

10.35(2) If authorized by a member, the commandant or designee may act on behalf of that member in receiving, disbursing, and accounting for personal funds of the member received from any source subject to the requirements of Iowa Code section 135C.24. The authorization may be given or withdrawn in writing by the member or legal representative at any time. The authorization shall not be a condition of admission to or retention at IVH.

10.35(3) IVH shall maintain a commercial account with a federally insured bank for the personal deposits of its members. The account shall be known as the IVH membership account/rep payee for social security/VA beneficiaries. The commandant or designee shall record each member's personal deposits individually and shall deposit the funds in the membership account where the members' deposits shall be held in the aggregate. Interest shall accrue on those accounts that are on deposit the last working Friday of each month. IVH may withdraw moneys from the account maintained pursuant to this subrule to establish certificates of deposit for the benefit of all members.

10.35(4) If authorized in writing by the member or legal representative, the commandant or designee may make withdrawals against that member's personal account to pay regular bills and other expenses incurred by the member. The authorization may be given or withdrawn in writing by the member or legal representative at any time. The authorization shall not be a condition of admission to or retention at IVH.

10.35(5) The commandant or designee shall maintain a written record of each member's funds which are received by or deposited with IVH. The member or legal representative shall receive a monthly statement showing deposits, withdrawals, disbursements, interest and current balances. If the commandant or designee is made representative payee or fiduciary for the member's financial transactions, this statement shall be maintained in the member's administrative file.

10.35(6) Except as otherwise specified and unless the commandant or designee has been appointed representative payee or fiduciary, funds deposited with IVH shall be released to the member or legal representative upon request. A statement will be provided showing deposits, disbursements, interest, and the final balance at the time the funds are withdrawn. When the member continues to maintain residency at IVH, the funds shall be released and a statement provided within three working days following the request. When a member is being discharged from IVH, the funds shall be released and a statement provided no later than the tenth day of the month following the month of discharge.

10.35(7) Upon the death of a member with personal funds deposited with IVH, IVH will first take payment for the final support bill, which may include debts owed to the IVH arts and crafts and ceramics

program. If funds remain, IVH, upon receipt of documentation of the outstanding balance, will convey promptly the member's funds to the funeral home or to the individual paying last funeral expenses. IVH will notify promptly the estate recovery program of the death of any IVH resident who has been on Title XIX. Upon IVH's receipt of notification from the estate recovery program, any funds remaining in the deceased resident's membership account will be disbursed according to the deceased resident's directions. If probate papers are produced, a final accounting of those funds must also be provided to the individual administering the member's estate along with a disbursement of any remaining funds. If the value of the member's estate is so small as to make the granting of administration inadvisable, IVH must hold, then deliver all money plus interest within one year to the proper heirs equally or adhere to the member's request in the member's last will and testament.

10.35(8) A member discharged while on leave from IVH shall have the member's account closed before the first of the month following discharge.

This rule is intended to implement Iowa Code sections 35D.11(2) and 35D.12(2).

[ARC 9689B, IAB 8/24/11, effective 9/28/11; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.36(35D) Leave, bed holds and 96-hour passes.

10.36(1) *Non-Title XIX members.*

a. Members are free to leave IVH grounds unless contraindicated by medical determination. In cases where it is determined to be medically contraindicated and a member chooses to leave, the member or legal representative must sign "Discharge Against Medical Advice," Form 475-0940.

b. Leaves are required if the member expects to be absent past midnight.

c. All leaves other than free time shall require payment of member support charges as though the member were in residency. Failure to pay regular member support charges may result in discharge of the member. Leave length may be changed by notification from the member or legal representative to the nursing unit social worker or domiciliary office.

d. Hospital leaves. Leaves spent in approved medical facilities away from IVH shall not be counted against the 59-day leave time limit as set out in paragraph 10.14(3) "b."

Hospital leaves shall be granted and the charges for such leaves shall be as follows: During the first ten consecutive days of any hospital stay, the member shall pay the regular and usual assessed charge for the member's level of care. Beginning on the eleventh day through the remainder of the hospitalization, the member shall not be charged. Each monthly member support bill shall reflect any adjustments related to hospitalization.

Leaves to other medical facilities for the purpose of treatment shall be treated as hospital leaves.

e. General leaves.

(1) Twelve days of leave time each calendar year shall be free time.

(2) The member shall be charged the usual support charge for leave time over 12 days up to and including 59 days.

(3) The member shall be charged the full support rate for the level of care in which the member resides for leave time over 59 days.

(4) Leave time is not cumulative from one calendar year to another calendar year.

(5) Leave time the member has not utilized or cannot utilize shall not be credited toward the member's support.

(6) Support charges for the member on leave who wishes to retain the member's room or bed shall be due and payable as though the member were in residency as set forth in paragraph 10.36(1) "c."

f. When the nursing care member is on leave, the member shall remain on in-house status for the first 12 leave days per calendar year for DVA per diem purposes and IVH shall be financially responsible for medical expenses, which include deductibles, co-pays and the member's share after all insurance has been filed and paid to the medical facility, unless the medical expenses are assumed by the member or legal representative in relation to choice of medical facility.

g. When a member has used 12 non-hospital leave days, IVH is not financially responsible for any medical charges for the member while on leave.

10.36(2) *Members who are receiving Title XIX benefits.*

a. Members are free to leave IVH grounds unless contraindicated by medical determination. In cases where it is determined to be medically contraindicated and a member chooses to leave, the member or legal representative must sign “Discharge Against Medical Advice,” Form 475-0940.

b. A leave as set out in paragraph 10.36(1) “b” is required if a member expects to be absent past midnight.

c. The member’s bed shall be held while the member is visiting away from IVH for a period not to exceed 18 days in any calendar year. There is no restriction as to the amount of days taken in any one month or during any one visit, as long as the days taken in the calendar year do not exceed 18. Additional days shall be allowed if the member’s medical provider recommends in the plan of care that additional days would be rehabilitative.

d. A member or a legal representative who wishes to exceed the 18 visitation days and retain the member’s bed, but does not have medical provider recommendation for an extension, must make arrangements with the operations division administrator or designee for payment of the rate determined by the department of human services income maintenance worker for all days in excess of the 18 visitation days. If prior arrangements and payment are not made, a member may be discharged in accordance with subrule 10.12(2).

e. A bed shall be held for a hospitalized member. The member’s client participation shall be paid according to the department of human services’ income maintenance worker for all hospitalized days until member returns or is discharged.

f. IVH is not financially responsible for any medical charges for the member when visiting away from IVH.

10.36(3) *Ninety-six-hour passes for domiciliary members.*

a. A pass shall not exceed 96 hours. If a member expects to be gone for more than 96 hours, a leave is required.

b. Upon return from a pass, the member must remain in residence past midnight of the day of return before another pass is issued.

c. When a member is on pass, the member shall remain on in-house status for DVA per diem purposes; IVH shall be financially responsible for medical expenses, which include deductibles, co-pays and the member’s share after all insurance has been filed and paid to the medical facility, unless the medical expenses are assumed by the member or legal representative in relation to choice of medical facility.

[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 8417B, IAB 12/30/09, effective 2/3/10; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.37(35D) Mail.

10.37(1) Each member or legal representative shall be afforded a choice in the methods of handling the member’s business mail and in meeting the member’s responsibilities for reporting resources for the purpose of computation of member support. A member found to have inadequate financial decision making shall have that member’s business mail handled in a manner as to respect that member’s dignity and still meet the needs of IVH for complete information regarding resources.

10.37(2) Each member or legal representative shall be allowed to handle that member’s business mail to the degree of responsibility chosen by the member or legal representative. A member may:

a. Elect to receive all business mail personally and provide the resident finance office with financial documentation, or

b. Designate that the member shall receive personal mail items, but business mail received at IVH from entitlement sources or concerning assets shall be routed to the resident finance office, cashier’s office or Medicare office, whichever is appropriate.

[ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.38 and 10.39 Reserved.

801—10.40(35D) Requirements for member conduct. The commandant or designee shall administer and enforce all requirements for member conduct. Subject to these rules and Iowa Code section 135C.23, the commandant or designee may transfer or discharge any member from IVH when the commandant or designee determines that the health, safety or welfare of the members or staff is in immediate danger, and other reasonable alternatives have been exhausted.

10.40(1) In addition to the member responsibilities as set out in rule 801—10.12(35D), each member shall also comply with the following requirements:

a. The use of intoxicants or alcoholic beverages on IVH premises is prohibited unless prescribed by a medical provider.

b. The bringing of alcoholic beverages or illicit substances on IVH premises is prohibited. Any illicit substances or drug paraphernalia or both found in the member's possession shall be grounds for immediate discharge.

c. The use of illegal substances while a member of IVH is prohibited. A urinalysis shall confirm the presence of illegal substances. A member's refusal to submit to a urinalysis in response to a request based on probable cause shall be considered a positive result and is grounds for discharge.

d. Firearms or weapons of any nature shall be turned in to the commandant or designee for safekeeping. The commandant or designee shall decide if an instrument is a weapon. Firearms or weapons in the possession of a member which constitute a hazard to self or others shall be removed and stored in a place provided and controlled by the facility or sent with family members for safekeeping.

e. Smoking in members' rooms is prohibited. Members who smoke shall do so within designated smoking areas so as not to endanger self or others.

f. Continuously disruptive behavior on the part of a member is grounds for transfer or discharge.

g. Members shall comply with legal requests and orders of the commandant or designee.

h. Members shall not violate state and federal statutes.

i. Members shall report to the resident finance supervisor or designee any changes in assets/income, and pay support within ten business days after the monthly support bill is received or ten business days after the member's last income deposit for the month.

10.40(2) When a member is found in violation of the requirements of conduct established in subrule 10.40(1), the following steps may be taken:

a. For a first offense, a member is counseled by an appropriate staff person and options for correcting the behavior are considered. Options may include but are not limited to:

(1) Funds restriction.

(2) Substance abuse treatment.

(3) Mental health services.

b. IVH control of the member's personal funds as follows:

(1) The pension money and other incomes and available liquid assets shall be deposited by the commandant or designee in a separate account for and on behalf of the member. The commandant or designee shall, under the procedures established in subrules 10.35(3) and 10.35(4), make withdrawals and disbursements to meet the regular bills and other expenses of the member.

(2) If, after a period of up to six months, the member's behavior is deemed appropriate by the facility, the handling of funds will be reviewed, and funds may be returned to the control of the member.

(3) If the member is discharged from IVH, the balance of the funds in the IVH membership account shall be paid to the member or financial legal representative no later than the tenth day of the month following the month of discharge.

c. For a second offense, a member is offered the services above and is placed on probation that warns a third offense may lead to discharge.

d. For a third offense, discharge from IVH in accordance with subrule 10.40(3).

10.40(3) The steps described in subrule 10.40(2) shall generally be followed in that order. However, if the member's violation is of an extreme nature and the member is not amenable to counseling, the commandant or designee shall choose to discharge the member after the expiration of a 30-day written notification period which begins when the notice is personally delivered. If the IRCC, in conjunction with the medical provider and mental health personnel, deems that the member's behavior poses a threat of

imminent danger, the commandant or designee may issue notice of an immediate involuntary discharge. In such an emergency situation, a written notice shall be given prior to or within 48 hours following the discharge.

The member's county commission of veterans affairs and the legal representative shall be informed in writing of the decision to discharge. Written notification shall also be issued to appropriate governmental agencies including the commission, the department of inspections and appeals, and the department on aging's long-term care ombudsman to ensure that the member's health, safety or welfare shall not be in danger upon the member's release.

10.40(4) A member who has been previously discharged under the provisions of subrule 10.40(2) or 10.40(3) shall be readmitted to IVH only upon the approval of the commandant or designee. If not approved, the applicant shall receive written notice of the denial. A copy of the denial notice shall be forwarded to the commission and the appropriate county commission of veterans affairs. Any decision to deny readmittance is subject to the review of the commission.

[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.41(35D) County of settlement upon discharge. A member does not acquire legal settlement in Marshall County, the county in which IVH is located, unless the member is voluntarily or involuntarily discharged from IVH, continuously resides in the county for a period of one year subsequent to the discharge and during that year is not readmitted to IVH and does not receive any services from IVH.

[ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.42(35D) Disposition of personal property and funds.

10.42(1) A discharged member shall remove all personal property at the time of discharge or within 30 days. Personal property not removed within 30 days after discharge shall become the property of IVH to dispose of as the commandant or designee directs. Personal property may be forwarded at the member's expense to the member's last-known address. When the member is discharged from IVH, the member's funds shall be released to the member or legal representative with a statement provided no later than the tenth day of the month following the month of discharge.

10.42(2) Following written notification to the legal representative or first next of kin, a deceased member's personal property remaining at IVH 30 days after written notification shall become the property of IVH to dispose of as the commandant or designee directs. If there is a known legal representative or first next of kin, the property may be shipped to the legal representative or first next of kin at the expense of the estate, legal representative, or first next of kin.

10.42(3) Upon the death of a member with personal funds deposited at IVH, after the final bill and any outstanding funeral expenses have been paid, and after receipt of notification from the estate recovery program (for those on Title XIX) that release of funds is approved, IVH shall convey the member's funds along with a final statement to the legal representative administering the member's estate. When an estate is not opened or in cases where no executor is appointed, IVH shall attempt to locate the deceased member's heirs and deliver the funds to the heirs equally or according to the terms of the last will and testament within one year after the date of death.

[ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.43(35D) Rule enforcement—power to suspend and discharge members. The commandant or designee shall administer and enforce all rules adopted by the commission, including rules of discipline and, subject to these rules, may immediately suspend the membership of and discharge any member from IVH for infraction of the rules when the commandant or designee determines that the health, safety or welfare of the members of IVH is in immediate danger and other reasonable alternatives have been exhausted. The suspension and discharge are temporary pending action by the commission. Judicial review of the action of the commission may be sought in accordance with Iowa Code chapter 17A.

10.43(1) The commandant or designee shall, with the input and recommendation of the IRCC, involuntarily discharge a member for any of the following reasons:

a. The member has been diagnosed with a substance use disorder but continues to abuse alcohol or an illegal drug in violation of the member's conditional or provisional agreement entered into at the time of admission or at any time thereafter, and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(2) The member has been notified of the member's commission of three offenses and has been given the opportunity to correct the behavior through either of the following options:

1. Being given the opportunity to receive the appropriate level of treatment in accordance with best practices for standards of care.

2. By having been placed on probation by IVH for a second offense.

Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1) "a," if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the IRCC and the commandant or designee may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged under paragraph 10.43(1) "a" if the member's actions or behavior jeopardizes the life or safety of other members or staff.

b. The member refuses to utilize the resources available to address issues identified in the member's collaborative care plan, and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(2) The member has been notified of the member's commission of three offenses and the member has been placed on probation by IVH for a second offense.

Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1) "b," if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the IRCC and the commandant or designee may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged if the member's actions or behavior jeopardizes the life or safety of other members or staff.

c. The member no longer meets the requirements for residential or nursing level of care, as determined by the IRCC or medical provider.

d. The member requires a level of licensed care not provided at IVH.

10.43(2) Provisions for member following discharge from IVH.

a. If a member is discharged under this rule, the discharge plan shall include placement in a suitable living situation which may include but is not limited to a transitional living program approved by the commission or a living program provided by DVA.

b. If a member is involuntarily discharged under this rule, the commission shall, to the greatest extent possible, ensure against the member being homeless and ensure that the domicile to which the member is discharged is fit and habitable and offers a safe and clean environment which is free from health hazards and provides appropriate heating, ventilation and protection from the elements.

10.43(3) Discharge notice, including right to appeal. An involuntary discharge of a member under this rule shall be preceded by a written notice to the member. The notice shall state that, unless the discharge is an immediate discharge due to the member's actions or behavior which jeopardizes the life or safety of other members or staff, the effective date of the discharge is 30 calendar days from the date of receipt of the discharge notice, and that the member has the right to appeal the discharge. In addition, the discharge notice shall contain:

a. The stated reason for the proposed discharge or transfer.

b. The actual effective date of the proposed discharge or transfer.

c. A statement in not less than 12-point type which reads: "You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Commission of Veterans Affairs (hereinafter referred to as "Commission") within five (5) calendar days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice at your own expense. If you request a hearing, it will be held, and a decision rendered within ten (10) calendar days of the

filing of the appeal. Provision may be made for extension of the ten (10) day requirement upon request to the Commission designee. If you lose the hearing, you will not be discharged or transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than five (5) days following final decision of such hearing. To request a hearing or receive further information, call the Commission or write to the Commission to the attention of: Chairperson, Commission of Veterans Affairs.”

10.43(4) Emergency discharge. In the case of an emergency transfer or discharge relating to a threat of imminent harm, the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident’s file, and it must contain all the information required by 10.43(3). In addition, the notice must contain a statement in not less than 12-point type (elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Commission of Veterans Affairs (hereinafter referred to as ‘Commission’) within 5 calendar days after receiving this notice. If you request a hearing, it will be held and a decision rendered within 10 calendar days of the filing of the appeal no later than 14 days after receipt of your request by the Commission. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, you may call the Commission or write to the Commission to the attention of: Chairperson, Commission of Veterans Affairs.”

10.43(5) Appeal by member.

a. If a member appeals the discharge under this rule, the member shall be provided with the information relating to the appeals process as specified in rule 801—10.47(35D).

b. If a member appeals the discharge under this rule, the involuntary discharge appeal process in rule 801—10.47(35D) shall apply.

10.43(6) By the fourth Monday of each session of the Iowa general assembly, the commandant shall submit a report annually to the senate veterans affairs committee and the house veterans affairs committee specifying the number, circumstances and placement of each member involuntarily discharged from IVH under this rule during the previous calendar year.

10.43(7) Any involuntary discharge by the commandant or designee under this rule shall comply with the rules adopted by the commission and by the department of inspections and appeals in accordance with Iowa Code section 35D.15.

[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 8417B, IAB 12/30/09, effective 2/3/10; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.44 Reserved.

APPEAL PROCESS

801—10.45(35A,35D) Applicant appeal process. An applicant who believes that any of the provisions of this chapter have not been upheld, or have been upheld unfairly, may file an appeal directly with the commandant or designee containing a statement of the grievance and requested action. The commandant or designee shall investigate and may hold an informal hearing with the applicant and other involved individuals. Subrules 10.46(4) to 10.46(8) apply subsequently. The commandant or designee shall notify the applicant of the decision in writing within ten working days of receipt of the grievance.

[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter]

801—10.46(35A,35D) Member appeal process. A member who believes that any of the provisions of 801—Chapter 10 have not been upheld or have been upheld unfairly may file an appeal.

10.46(1) A member shall discuss the problem and action desired with the assigned social worker within five working days of the incident which caused the problem. The social worker shall investigate the situation and attempt to resolve the problem within five working days of the discussion with the member. If the assigned social worker has allegedly caused the grievance, the member may file the grievance directly with the social work supervisor.

10.46(2) If unable to resolve the problem, or if the member is dissatisfied with the solution, the social worker shall assist the member with filing a formal grievance and shall submit a report of the facts and recommendations to the administrator of nursing within five working days of the discussion with the member. The administrator of nursing shall inform the member of the decision in writing within five working days of receipt of the social worker's report.

10.46(3) If the member is not satisfied with the decision of the administrator of nursing, or if no decision is given within the time specified in subrule 10.46(2), the member may appeal to the commandant or designee within ten working days of the decision of the administrator of nursing or, if no decision is given, within ten working days of the time limit specified in subrule 10.46(2). The grievance shall be submitted in writing and contain a statement of the cause of the grievance and requested action. A copy of the decision of the administrator of nursing shall be attached to the grievance statement, if applicable. The commandant or designee shall investigate the grievance and may hold an informal hearing with the member, administrator of nursing, and other involved individuals. The commandant or designee shall notify the member and the administrator of nursing of the decision in writing within ten working days of receipt of the grievance.

10.46(4) If the member is not satisfied with the decision of the commandant, or if no decision is given within the time limits specified in subrule 10.46(3), the member may appeal to the commission within ten working days of the commandant's decision. The member and commandant shall be notified in writing within five working days of the commission's receipt of the appeal. The commission shall schedule a hearing with the member, commandant, and other involved individuals to determine the facts and make a final decision.

10.46(5) The member may appoint any individual to represent the member in the appeal process, at the member's expense.

10.46(6) No reprisals of any kind shall be taken against a member for filing an appeal.

10.46(7) The member may obtain judicial review of the commission's final decision in accordance with Iowa Code chapter 17A.

10.46(8) The time limits specified in the above subrules may be extended when mutually agreed upon by the persons involved in the appeal process.

[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

Rules 801—10.45(35A,35D) and 801—10.46(35A,35D) are intended to implement Iowa Code subsection 35A.3(4) and Iowa Code chapter 35D.

801—10.47(35D) Involuntary discharge appeal. When a member appeals an involuntary discharge, the following provisions shall apply:

10.47(1) The member shall file the appeal with the commission within 5 calendar days of receipt of the discharge notice.

10.47(2) The commission shall conduct a contested case proceeding in accordance with the uniform rules on contested case proceedings found in 801—Chapter 8. The rules in 801—Chapter 8 are adopted by reference with the following amendment: The presiding officer must be a member of the commission and cannot be an administrative law judge with the department of inspections and appeals.

10.47(3) The commission shall render a decision on the appeal and notify the member of the decision in writing within 10 calendar days of the filing of the appeal.

10.47(4) If the member is not satisfied with the decision of the commission, the member may appeal the commission's decision by filing an appeal with the department of inspections and appeals within 5 calendar days of being notified in writing of the commission's decision.

10.47(5) The department of inspections and appeals shall render a decision on the appeal of the commission's decision and notify the member of the decision in writing within 15 calendar days of the filing of the appeal with the department.

10.47(6) The maximum time period that shall elapse between receipt by the member of the discharge notice and actual discharge shall not exceed 55 days which includes the 30-day discharge notice period and any time during which any appeals to the commission or the department of inspections and appeals are pending.

10.47(7) If a member is not satisfied with the decision of the department of inspections and appeals, the member may seek judicial review in accordance with Iowa Code chapter 17A. A member's discharge under rule 801—10.43(35D) shall not be stayed while judicial review is pending.

[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 8417B, IAB 12/30/09, effective 2/3/10; ARC 8635B, IAB 3/24/10, effective 4/28/10]

801—10.48 Reserved.

801—10.49(35D) Licensed nursing home administrator. The commandant shall employ a licensed nursing home administrator and convey the authority for compliance with all applicable laws and rules.

This rule is intended to implement Iowa Code chapter 135C.

[ARC 2675C, IAB 8/17/16, effective 9/21/16]

GROUPS AND FACILITY ADMINISTRATION

801—10.50(35D) Visitors. Visitors are welcome to IVH subject to the following conditions:

10.50(1) Member visitation hours are from 8 a.m. to 11 p.m. daily. Visiting hours may be extended on an individual basis with the approval of the commandant or designee.

10.50(2) Visitors are subject to the policies and procedures as established by IVH, including the tobacco-free policy.

10.50(3) Tours of IVH may be arranged by contacting the commandant or designee.

10.50(4) Weapons, illegal substances or alcoholic beverages are not permitted on IVH grounds.

10.50(5) Any disruptive behavior on the part of a visitor shall result in modification, denial or termination of visiting privileges.

10.50(6) Trespass. Visitors shall not enter IVH grounds with the intent to commit a public offense, remain upon the grounds or in IVH buildings without justification after being notified or requested to abstain from entering, or to remove or vacate therefrom by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of IVH and its grounds.

10.50(7) Any visitor violating any of the rules within this chapter may be restricted from IVH for a period of time to be determined by the commandant or designee.

10.50(8) Visitors who bring pets must comply with IVH rules regarding pet health and safety. Pets shall be kept on a leash while on IVH grounds.

[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.51(35D) Mail. Rescinded ARC 2675C, IAB 8/17/16, effective 9/21/16.

801—10.52(35D) Interviews and statements.

10.52(1) Releases to the news media shall be the responsibility of the commandant or designee. Authority for dissemination and release of information shall be designated to other persons at the discretion of the commandant or designee.

10.52(2) Interviews of members within IVH by the news media or other outside groups are permitted only with prior consent of the member to be interviewed or the member's legal representative. At the request of the person or group who wishes to conduct an interview, the commandant or designee shall seek to obtain the required consent from the member or the member's legal representative.

[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter]

801—10.53(35D) Donations. Donations of money, new clothing, books, games, recreational equipment or other gifts shall be made directly to the commandant or designee. The commandant or designee shall evaluate the donation in terms of the nature of the contribution to the facility program. The commandant or designee shall be responsible for accepting the donation and reporting the gift to the commission. All monetary gifts shall be acknowledged in writing to the donor and reported to the Iowa ethics and campaign disclosure board.

[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.54(35D) Photographing and recording of members and use of cameras.

10.54(1) Photographs and recordings of members within IVH by news media or other outside groups are permitted only with prior consent of the member to be photographed or recorded, or the member's legal representative. At the request of the person or group who wishes to make photographs or recordings, the commandant or designee shall seek to obtain the required consent from the member or the member's legal representative.

10.54(2) Every effort shall be made to preserve the inherent dignity of the member and to preclude exploitation or embarrassment of the member or the family of the member.

[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter]

801—10.55(35D) Use of grounds and facilities.

10.55(1) Persons wishing to use the facilities and grounds for civic purposes, programs for members, meetings, and similar purposes, must contact the commandant or designee at least two weeks in advance of the requested date. The commandant or designee may disapprove a request when the requested facilities are scheduled for use by or for the members, or when the activity would disrupt the normal operation of IVH. Previous arrangements to use the facilities or grounds may be canceled by the commandant or designee in the event of an emergency or when changes in the schedule require the use of the facilities or grounds for the members. Persons who use the facilities or grounds shall be held responsible for leaving the facilities or grounds in satisfactory condition and for any damages caused by or resulting from use.

10.55(2) Outside organizations permitted to use facilities or grounds shall observe the same rules as visitors to the facility.

[ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter]

801—10.56(35D) Nonmember use of cottages. Cottages may be made available to IVH staff or to other members of the public with the commandant's or designee's approval and at the established rate.

10.56(1) Expenses incurred as a result of damage or need for exceptional cleaning/sanitizing procedures, or both, may result in additional charges as determined by IVH.

10.56(2) Posted occupancy capacities shall not be exceeded and may be grounds for denial of use.

10.56(3) Pets are only allowed inside the cottages as outlined in the IVH cottage occupancy policy.

[ARC 8014B, IAB 7/29/09, effective 7/10/09; ARC 9689B, IAB 8/24/11, effective 9/28/11; ARC 1157C, IAB 10/30/13, effective 12/4/13; see Delay note at end of chapter; ARC 2675C, IAB 8/17/16, effective 9/21/16]

801—10.57(35D) Operating motor vehicles on grounds.

10.57(1) The operator of a motor vehicle shall have a valid license for the type of vehicle being driven upon IVH grounds.

10.57(2) All persons operating a motor vehicle on IVH grounds shall comply with the applicable state and local laws and IVH policies.

10.57(3) No driver of a motor vehicle or motorcycle shall disobey the instructions of any traffic-control device, warning, or sign placed.

10.57(4) No person shall drive any vehicle in such a manner as to indicate either a willful or wanton disregard for the safety of person or property. The person operating the motor vehicle or motorcycle shall have same under control and shall reduce the speed to 20 miles per hour on IVH grounds and reduce the speed to a lower, reasonable rate when approaching and passing a person walking in the traveled portion of a street.

10.57(5) No person shall stop, park, or leave standing any type vehicle in established fire lanes, emergency vehicle areas, and other essential lanes. No person shall park any type vehicle on roadways.

10.57(6) No person shall leave any type vehicle unattended by not locking doors or removing keys.

10.57(7) Failure to comply with rules may cause limitation or curtailment of driving privileges on IVH grounds for an indefinite period.

10.57(8) Motor vehicles belonging to members may be parked in member-designated parking on IVH grounds.

This chapter is intended to implement Iowa Code subsection 35A.3(4) and chapter 35D.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]
[Filed 7/23/76, Notice 6/14/76—published 8/9/76, effective 9/13/76]
[Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
[Filed 6/2/81, Notice 3/18/81—published 6/24/81, effective 7/29/81]
[Filed 7/30/82, Notice 6/9/82—published 8/18/82, effective 10/1/82]
[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed 4/22/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
[Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
[Filed 1/7/93, Notice 11/25/92—published 1/20/93, effective 3/1/93]
[Filed 7/12/96, Notice 5/8/96—published 7/31/96, effective 9/4/96]
[Filed 4/15/99, Notice 1/27/99—published 5/5/99, effective 6/9/99]
[Filed emergency 9/17/03—published 10/15/03, effective 9/17/03]
[Filed 1/8/07, Notice 10/25/06—published 1/31/07, effective 3/7/07]
[Filed 10/4/07, Notice 8/15/07—published 10/24/07, effective 11/28/07]
[Filed 4/25/08, Notice 3/12/08—published 5/21/08, effective 6/25/08]
[Filed Emergency After Notice ARC 7890B (Notice ARC 7746B, IAB 5/6/09), IAB 7/1/09, effective 7/1/09]
[Filed Emergency ARC 8014B, IAB 7/29/09, effective 7/10/09]
[Filed ARC 8417B (Notice ARC 8235B, IAB 10/21/09), IAB 12/30/09, effective 2/3/10]
[Filed ARC 8635B (Notice ARC 8488B, IAB 1/27/10), IAB 3/24/10, effective 4/28/10]
[Filed ARC 9689B (Notice ARC 9492B, IAB 5/4/11), IAB 8/24/11, effective 9/28/11]
[Filed ARC 1157C (Notice ARC 0924C, IAB 8/7/13), IAB 10/30/13, effective 12/4/13]¹
[Filed ARC 2675C (Notice ARC 2594C, IAB 6/22/16), IAB 8/17/16, effective 9/21/16]

¹ December 4, 2013, effective date of ARC 1157C [amendments to ch 10] delayed 70 days by the Administrative Rules Review Committee at its meeting held November 8, 2013. At its meeting held December 10, 2013, the Committee lifted the delay, effective December 11, 2013.